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MESSAGES AND PROCLAMATIONS

OF THE

GOVERNORS OF IOWA

STATE HISTORICAL SOCIETY
IOWA

THE

MESSAGES AND PROCLAMATIONS

OF THE

GOVERNORS OF IOWA

COMPILED AND EDITED BY

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VOLUME I

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PREFACE

The publication of the Messages and Proclamations of the Governors of Iowa was authorized by an act of the Twenty-ninth General Assembly making an appropriation to the State Historical Society. Under the authority of that act the Board of Curators of the State Historical Society ordered and directed the compilation and publication of the documentary materials included in these volumes.

This compilation contains four classes of documents. I. Regular Messages, which include (a) Inaugural Addresses (State Governors), (b) Annual Messages (Territorial Governors), (c) Biennial Messages (State Governors), and (d) Messages communicated at the opening of Special Sessions. II. Veto Messages. III. Special Messages. IV. Proclamations. From the table of contents it will be seen that the several Governors are named in their proper chronological order, and that the documents of each Governor are arranged according to the above classification. Within each class the documents are arranged in chronological order.

The source from which each document has been taken for this compilation is clearly indicated in each case. This is necessary since many of the documents may be found in more than one source. In selecting sources, reliance has been placed first of all on official publications and original manuscripts. Resort to unofficial sources, such as newspapers, has been had only when the materials were not dis-

covered in the original manuscript or in official publications. The several documents have been reprinted or transcribed literally from the sources indicated. This will account for the lack of uniformity in punctuation, capitalization, and spelling, and also for some manifest errors in the text.

It is hardly probable that all of the materials which properly belong in this compilation have been discovered. Some of the proclamations of the earlier Governors have not been found either in the public archives or in the newspapers of the day. Time will doubtless reveal the omissions; and the publication of what has been gathered will aid in bringing to light the missing documents.

It has been thought best to issue a special index volume for the entire compilation.

The preparation of these volumes without interruption to my regular academic duties would have been impossible but for the constant assistance of Mrs. Shambaugh.

BENJ. F. SHAMBAUGH

IOWA CITY, 1903

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GOVERNOR HENRY DODGE

BIOGRAPHICAL SKETCH

Henry Dodge, the first Governor of the original Territory of Wisconsin of which Iowa formed a part from July 1836 to July 1838, was born at Post St. Vincents (now Vincennes, Indiana) in the Territory of the Northwest, on October 12, 1782. His father, whose name is found among the officers of the American Revolution, was a New Englander. His mother, a woman of Scotch-Irish descent, was born in Pennsylvania.

Henry Dodge spent the greater part of his life on the frontiers of Indiana, Kentucky, Missouri, Illinois, Michigan, Wisconsin, and Iowa. He was a product of the frontier, typifying in his life and character the courage, energy, and aggressiveness of the pioneers of the Middle West. His boyhood days were passed in Indiana and Kentucky. At the age of fourteen he joined his father in Upper Louisiana, a province then under the dominion of Spain. As a private citizen he was at different times engaged in making salt, mining and smelting lead, and in farming. His public life is quite remarkable.

As a soldier Henry Dodge held the following commissions: Lieutenant of Militia in the District of St. Genevieve, (Ter. La.) 1806; Adjutant of Militia in the District of St. Genevieve, 1806; First Lieutenant of St. Genevieve Troop of Cavalry, 1807; Captain of St. Genevieve Troop of Cavalry, 1809; Brigadier General of the Territory of Missouri, 1814; Major General of the Second Division of

Missouri Militia, 1822; Colonel in the Militia of the Territory of Michigan, 1829; Major of a Battalion of Mounted Rangers, 1832; and Colonel of a Regiment of United States Dragoons, 1834.

As a civil officer he held the following positions: Deputy Sheriff of the District of St. Genevieve, 1805; Marshal of the Territory of Missouri, 1813; Sheriff of the County of St. Genevieve, 1813, and again in 1815; Marshal for the District of Missouri, 1817; Member of the Constitutional Convention of Missouri, 1820; Chief Justice of the County Court of Iowa County, (Michigan) 1829; elected to the Legislative Council of the Territory of Michigan, 1831; Governor of the original Territory of Wisconsin from 1836 to 1838; Governor of the Territory of Wisconsin from 1838 to 1841, and from 1846 to 1848; Delegate in Congress from the Territory of Wisconsin from 1841 to 1845; and United States Senator from the State of Wisconsin from 1848 to 1857.

In politics Henry Dodge was a Democrat and a warm friend of Andrew Jackson. His son, Augustus Cæsar Dodge, was a Delegate from the Territory of Iowa to the Twenty-seventh, Twenty-eighth, and Twenty-ninth Congresses. In 1851 he was elected to a seat in the United States Senate. It is a remarkable coincidence that father and son were members of Congress at the same time.

Bibliographical Note.—*Iowa Historical Record*, Vol. II, p. 313; Vol. V, p. 337; Vol. VI, pp. 391, 445; Vol. VII, p. 101; Vol. VIII, pp. 251, 297; Vol. XIV, p. 289. *Collections of the Wisconsin Historical Society*, Vol. V, p. 173; Vol. VIII, p. 273. *Annals of Iowa*, 3d Series, Vol. IV, p. 137. *Appleton's Cyclopedia of American Biography*, Vol. II.

FIRST ANNUAL MESSAGE

October 26, 1836

From Journal of the House of Representatives, Wis. Ter., p. 11

Fellow Citizens of the Council, and House of Representatives:

We have been convened under an act of Congress of the United States establishing the territorial Government of Wisconsin, for the purpose of enacting such laws as may be required for the government of the people of this territory. The present and future prosperity of the people of this territory, greatly depends upon the laws which may be passed at the present session of the Legislative Assembly. You will have my most cordial co-operation in the discharge of the high responsible duties that devolve on you as the representatives of the people.

The judicial power of this territory, under the organic law of Congress, is vested in a Supreme Court, District Court, Probate Courts, and Justices of the Peace. I would recommend the early action of the Legislative Assembly in defining the jurisdiction and powers of the several Courts of this territory, dividing the territory into judicial districts, and prescribing the times and places of holding the proper Courts. There is now in confinement in several counties in this territory, criminals charged with capital offences; and the due administration of justice requires that they should be tried as early as competent courts can be organized. The judiciary is one of the most important

branches of our territorial government; the lives, liberties, and property of all classes of the community, depend on the due and impartial administration of the laws.

I would recommend to the Legislative Assembly, at an early day of their session, that a memorial be forwarded to the Congress of the United States, on the subject of extending the right of pre-emption, to a numerous and respectable portion of the inhabitants of this territory, who are now settled on the public lands. The policy heretofore pursued by the Government, in granting the right of pre-emption to actual settlers, has induced many families to emigrate to this territory, believing the same indulgence would be extended to them that had been granted to others. Relying on the justice of the government, they have invested all their means in the improvement of this country; and to be placed in competition with speculators in the purchase of their homes, would bring ruin and distress on many families. The actual settlers on the public lands have brought this territory into notice, and have been the means of producing a large amount in the Treasury of the United States. The public lands were intended for the benefit of the actual settler, who depends alone on the soil for support. They are ready at all times to defend their homes at the risk of everything dear to freemen. By granting them the right of pre-emption they will be enabled to purchase their homes at the government price, which is a small boon extended to this meritorious class of the community, for all the privations incident to the settlement of a new country. The policy of the government in granting pre-emption rights to actual settlers, has grown with the growth and

strengthened with the strength of the western country. It is a policy wise and just. The relation of landlord and tenant should never exist in this country; it is contrary to the spirit of our free institutions; and surely the representatives of a great and enlighted people will shield the actual settler and his family from the avaricious grasp of the speculator. Congress having passed a law at their last session, granting to the actual occupants of town lots on the land of the United States, the privilege of purchasing their lots at a fixed price, has established a precedent that gives the actual settler strong claims on the justice of the Government. From the present state of the United States Treasury, it would seem there could be no necessity for selling the public lands to the actual settler at the high price of one dollar and a quarter an acre; in justice, the price of the public lands should be reduced and graduated according to the value of the land. From the great extent of the public domain of the Territory, yet to be surveyed, it would seem the public interest would be greatly promoted by the establishment of a Surveyor General's Office within their territory, and the location of two Land Offices west of the Mississippi.

I would suggest the propriety of memorializing Congress as to the justice of granting to all the miners who have obtained the ownership of mineral grounds, under the regulations of the superintendent of the United States Lead Mines, either by discovery or purchase, the right of preemption in the purchase of their mineral lots at the minimum price of the public lands. By the perserving industry of the miners, the lead mines have greatly increased in

value; they have been in war, many of them, the brave defenders of the mining region of country; they were invited by the Government, through their agents, to explore and work the United States mines. This meritorious class of the community have strong claims on the justice and liberality of the government, that I trust will not be withheld from them. By selling the United States lead mines, without a reservation securing the rights of the miners, they would be deprived of valuable mineral grounds that they have exercised ownership over for years; they would not be able to compete with speculators whose object will be to make a monopoly of all the mineral grounds in this extensive lead region of country.

I would recommend a memorial to Congress should be prepared, at an early day of the Legislative Assembly, on the subject of the necessary Internal Improvements in this territory. Forty thousand dollars were appropriated at the last session of Congress for the removal of the obstructions in the rapids of the upper Mississippi. I would suggest the propriety of asking of Congress an appropriation of two hundred and fifty thousand dollars for the completion of this important public measure. The annual transportation over these rapids amounts to several millions of dollars. The great increase in the commerce of the upper Mississippi within the last two years, the large amount of lead annually shipped from the lead mines, now sufficient for the consumption of the United States, and the increased value of the public lands on the shores of the upper Mississippi, where towns are building on the most eligible situations, give the citizens of this territory strong claims on the patronage of their Government.

The shipping interest on Lake Michigan for the last two years has increased to a great extent, and little has been done by the Government to protect it. Appropriations for the construction of harbors and light-houses, are of the first importance to protect our commerce, as well as the lives of enterprising citizens on Lake Michigan. Many lives, and property to a large amount, have been lost for the want of the necessary harbors on this Lake. I would suggest the propriety of asking of Congress an appropriation sufficient to cover the expense of surveying all the necessary harbors on Lake Michigan, and the construction of such harbors and light-houses, at the most eligible situations, for the security and protection of our lake trade.

The improvement of the navigation of Fox river, I consider a subject of great importance to the citizens of this territory, and recommend that an appropriation be asked of Congress for a survey of the Fox river from Green Bay to Fort Winnebago. A small appropriation would remove the obstructions at the Grand and Little Kakalin, and by cutting a canal a short distance, one-third of the distance would be shortened between Lake Winnebago and the portage of the Wisconsin and Fox rivers. A canal, already commenced, of one mile and a quarter, will connect the waters of the Wisconsin and Fox rivers. This important public work has been commenced by an enterprising company, under a charter from the territory of Michigan, and it is expected, will be completed the next season. With the improvement of the navigation of the Fox river, and connecting the waters of the Wisconsin with that river, we would have an internal communication between Lake Michigan and the

Mississippi river, which would greatly facilitate our commercial operations on the Lakes, as well as the transportation of troops and munitions of war should it be necessary, for the protection of our exposed and extensive frontier.

The improvement of the navigation of the Rock river, I consider a subject of vital importance to the future prosperity of this territory. This river waters a large extent of fertile country; a small appropriation by Congress would be sufficient to remove the obstructions in its navigation. It is known, that, from the outlet of the four lakes, that discharges itself into the Rock River, the distance does not exceed twelve miles by land, and from the fourth lake, it is not more than sixteen miles to the Wisconsin river. Indians have frequently descended in canoes, in high waters, from the fourth lake to the Wisconsin river. The great advantage of this inland communication must be apparent; it would greatly enhance the value of the national domain in that part of the territory, and increase the value of lands purchased by individuals from the government. The construction of a railroad, commencing at some suitable point on the Mississippi, in this territory, passing through the mining country to the Rock river, and direct to Lake Michigan, is a subject of great interest to the citizens of this territory, who have strong claims on the patronage of the Government in granting a donation in land for that important purpose.

I recommend to the Legislative Assembly, the propriety of asking from Congress a donation of one township of land, to be sold, and the proceeds of the sale placed under the direction of the Legislative Assembly of this territory,

for the establishment of an academy for the education of youth; the institution to be governed by such laws and regulations, and to be erected at such place as the Legislative Assembly may designate. It is a duty we owe to the rising generation to endeavor to devise means to improve the condition of those that are to succeed us; the permanence of our institutions, must depend upon the intelligence of the great mass of the people.

The organizing and arming of the militia I consider a subject of great interest to the future peace of the people of this territory, from the great extent of our exposed and defenceless frontiers—situated, as they are, without arms and ammunition, is a state of things calculated to invite a sudden attack from the numerous Indians bordering on our territory. We are now in a state of peace, and it is the proper time to make the necessary preparations to guard against future events. Experience should teach us, and the existing war in the South with the Seminole Indians admonishes us, of the necessity of being prepared. I would recommend the passage of a law organizing one company of volunteer mounted riflemen in each of the counties of this territory, to be composed of sixty men each, exclusive of officers, and non-commissioned officers, with the privilege of electing their officers, to be uniformed and held at all times in readiness to take the field. These companies of mounted riflemen should by law be obliged to muster once during each of the summer and fall months, and every two months during the spring and winter months. Mounted riflemen are the most efficient troops for the protection and defense of our frontier settlements. I would recommend the pas-

sage of a law, making it the duty of the Adjutant General of the militia to make a tour of muster and inspection of the militia in each of the counties in this territory, for the purpose of drilling the officers of each regiment of militia, three days in each year before each regimental muster; and, after the muster and inspection of arms, it should be made the duty of the Adjutant General of the militia to report the strength of the militia of each regiment, with the state and condition of their arms: this report to be made annually to the commander-in-chief of the militia. These returns are important to enable the territory to procure from the general government her proportion of the public arms, according to her numbers. The Adjutant General of the militia should receive a liberal compensation, by law, for his services. I would recommend to the Legislative Assembly the justice and propriety of asking of Congress, a deposit in this territory of three thousand stand of arms for the use of the citizens in the event of an Indian war—one-half the number asked for to be rifles, and the remainder muskets, with fixed ammunition prepared sufficient for a campaign of four months. In addition to the rifles and muskets proposed, I would recommend there should be added four light brass field-pieces, not to exceed in weight three hundred pounds, (three pounders,) fixed on carriages, with a supply of fixed ammunition for them. Experience has proven to us that in the first stages of our difficulties with the Indians, we have to depend on our own resources; the granting us the privilege of a deposit of arms might be a great saving to the government in a pecuniary point of view, and might be the means of saving many valuable lives in the event of

an Indian war. Under the organic law of Congress it was made the duty of the executive to convene the Legislative Assembly at some place designated by him. In the discharge of that duty I have selected this place. The permanent location of the Seat of Government is a subject of vital importance to the people of this territory, and I deem it proper to state that my assent will be given to its location at any point where a majority of the representatives of the people agree it will best promote the public good.

H. Dodge.

SECOND ANNUAL MESSAGE

November 7, 1837

From Journal of the House of Representatives, Wis. Ter., p. 7

Fellow Citizens of the Council, and House of Representatives:

By a law of the last session of the Legislative Assembly we are convened to legislate for the people of this Territory, under the organic law of Congress, creating the Territory of Wisconsin, and prescribing its form of government.

As the Representatives of the people, you will bring with you a knowledge of the wants and wishes of your constituents. I trust a spirit of harmony and good feeling will govern your deliberations, to enable you to proceed with that despatch necessary in all legislative bodies; and you will have my most cordial co-operation in support of all measures that have for their object the public good.

By the organic law of Congress, the laws of the late Territory of Michigan are in force until altered, modified, or repealed. There has been a great accession of population to this territory within the last four years, from every part of the United States: the state and condition of the people has been greatly changed, and the existing laws now in force (many of them) are not suited to the habits and wants of the citizens of this territory. I recommend for your consideration, at an early day of your session, the propriety of selecting three or more competent persons to report a

code of laws to be submitted to the action of the Legislative Assembly during their present session.

Owing to the present embarrassed state of the currency in this territory, I recommend for the consideration of the Legislative Assembly, the passage of a law granting a stay of execution for one year on all judgments that may be obtained in the different courts of record. The enactment of a law to that effect would prevent the ruin of many whose property will be liable to sale at great loss. Debts have been created when bank notes of different banks were in general circulation in this territory, by many of the most industrious and enterprising citizens, who, no doubt, believed they would be able promptly to meet their engagements. A forced sale of their property under the existing execution laws, would not only deprive the debtor of the means of support, but, in many cases, would prevent the creditor from recovering his debts.

At the last session of the Legislative Assembly, I called your attention to the propriety of memorializing Congress, asking the extension of the right of pre-emption to the actual settlers located on the public lands in this Territory. I again recommend your early action on that important subject. This meritorious class of our citizens, who are occupants of the public lands, have emigrated to this Territory, under the belief that the same privileges would be granted to them that had been extended to others. The settlers on the public lands are the pioneers of the West, who are rapidly extending the settlements of this Territory; they are alike distinguished for their industry, enterprise, and attachment to the republican institutions of this country; and

every consideration of justice and humanity calls upon the Congress of the United States to extend to the citizens of this territory, who are occupants of the public lands, their fostering protection. The lot of the settlers on the public lands has been one of hardship, privation, and toil, exposed alike to the dangers of savage warfare, and the diseases incident to the settlement of a new country. The early settlers have built towns, now the seats of civilization and refinement, where Indian wigwams stood smoking four years ago. The early settlers on the public lands in this Territory have explored and opened the most valuable lead mines that have been discovered in the United States, thereby greatly enhancing in value the national domain; by the sale of which large sums have been paid to the government. Land was the immediate gift of God to man, and from the earliest history of the world was designed for cultivation and improvement, and should cease to be an object of speculation. Speculators in the public lands have purchased large tracts east of the Mississippi in this Territory, which remain waste until they will sell for the highest prices; thereby retarding the growth and settlement of the Territory to the great injury of the actual settler. The just and proper policy of the government would be to reduce the price of the public lands, and sell them to the actual settler alone. The public domain would be sold in a short period of time; Indian wars would cease to exist; the frontiers would be settled by a brave and hardy race of men, who would be a barrier to Indian encroachments, and there would be no necessity of maintaining military posts for the protection of our frontiers. Should the Congress of the United States make no

provision for the occupants of the public lands, and they should be deprived of their homes, either by the act of the government, or by speculators who might purchase them at a public sale, it will produce a state of things greatly to be regretted. The people of this Territory in the occupancy of the public lands, although firmly devoted to the republican institutions of the country, (and a large majority of them have the most entire confidence in the wisdom and policy of the present administration of the General Government,) will never submit to be driven from their homes by the iron grasp of the land speculator. Congress having for many years granted the right of pre-emption to the actual settler of the public lands, and that policy of the Government having continued to exist during the settlement of the Western States, should not now be changed.

I deem it my duty to call the attention of the Legislative Assembly to the propriety of memorializing Congress, asking the extension of the right of pre-emption to all miners who have obtained the possession of mineral grounds, or lots under the authority of the Superintendent of the United States lead mines in this Territory, either by discovery or purchase; and that each miner should be permitted to purchase his mineral lot at the minimum price of the public lands.

I recommend to the Legislative Assembly the propriety of again memorializing Congress, asking them to increase the appropriation to the sum of two hundred thousand dollars for the removal of obstructions at the upper and lower rapids on the Upper Mississippi. It is understood the examinations of the obstructions at these rapids had been

recently made under the direction of the War Department; and, from the favourable report made by the Government, it was expected preparations would have been made to have commenced this important work at the low stage of the river this season. The appropriations, heretofore made by Congress, have been entirely too small, considering the importance of the work. The trade of the Upper Mississippi has increased greatly in importance within the last three years, and from the best estimate that can be made at this time, exceeds in amount three millions of dollars annually; the whole of which passes these rapids. The delay in lightening steam-boats to enable them to pass the rapids at a low stage of the river, and the loss of property on them, is believed to be equal to ten per cent. on the whole amount shipped. It is not alone the citizens of this Territory who are interested in the completion of this important work: the people of the state of Illinois, residing on the borders of the Upper Mississippi, are equally interested. This interest pervades the whole country on the Mississippi from St. Peters to the Gulf of Mexico. Large appropriations have heretofore been made by Congress for the removal of obstructions in the navigation of the different rivers in the Western States, and surely the citizens of this Territory have equal claims on the justice and patronage of the Government.

By an act of the Congress of the United States, approved March 3d, 1837, the sum of five thousand dollars, each, was appropriated for the erection of light-houses at the mouths of each of the following rivers, tributaries of Lake Michigan: Milwaukee, Manitoowoc, Cheboygan, and Root river, and at the entrance of Fox River into Green Bay.

Under the provisions of the act of Congress, referred to, it is made the duty of the Navy Commissioners to report to the Secretary of the Treasury, after they have caused an examination to be made for the purpose of ascertaining whether the safety of navigation requires any additional facilities, and what is most suitable for each place designated. Should the Board of Navy Commissioners be of the opinion that the improvements are not required to facilitate the navigation of Lake Michigan, or that it is inexpedient from any other cause, their opinion with the facts are to be reported to Congress. Engineers have heretofore been appointed under the direction of the war department, who have made surveys at the mouths of the rivers mentioned, for harbours, and these reports will show the practicability of their improvement, and their importance and utility to the public. It is a fact well known, that nearly the whole length of Lake Michigan (the western shore of the lake) presents a bold bluff front, varying from fifty to one hundred feet in height, rendering it extremely dangerous in storms, owing to the scarcity of bays and natural harbours for the safety of vessels. Extensive settlements are forming on the borders of Lake Michigan; the shipping interest on the Lake has greatly increased within the last two years; and the consequent wreck of vessels and loss of lives and property may be expected, until the construction of harbours and the erection of light-houses at the mouths of the rivers mentioned. With the exception of the entrance of Fox River into Green Bay, this bay is the best natural harbour on the western borders of Lake Michigan. The construction of a pier, and the establishment of a beacon

light, at Long Tail Point (at the head of the bay) as well as the erection of buoys to mark the ship channel, are deemed to be of the first importance to the safety of the navigation. From the increased commercial importance of the town of Milwaukee, and its location near the center of the western shore of Lake Michigan, at the mouth of Milwaukee river, where nature has done much towards making a safe harbour, it would seem that a just regard for the rights of the citizens of this Territory, residing on the borders of Lake Michigan, would urge the Congress of the United States, as an act of justice, to make a liberal appropriation for the construction of a harbour at this important point, which is absolutely necessary for the protection of the lives and the security of the property of our citizens engaged in the Lake trade. Large appropriations were made at the last session of Congress, for the benefit of twenty of the states of this Union, for the building of light houses, light boats, beacon lights and buoys, and the sum of sixty-one thousand dollars was appropriated for the same purposes for the Territory of Florida, and the small amount of twenty-five thousand alone appropriated for this Territory, for the above purpose; and that appropriation made contingent upon the report of the Navy Commissioners to the Secretary of the Treasury, and from him to the Congress of the United States. I recommend to the Legislative Assembly the propriety of again addressing a memorial to Congress, asking an increased appropriation for the construction of harbours, and the erection of light-houses at the mouths of the different rivers designated in the act of Congress referred to, as well as the necessary improvement in the navigation of Green Bay.

A survey has recently been ordered by the War Department, of Fox and Rock rivers. The report of the Engineers charged with that duty has not been published; but, from the best information I have been able to obtain, their report will be favourable to the improvement of both those rivers. The improvement of the navigation of the Fox river, and the connexion of that river with the Wisconsin river, by a short canal of one and one-fourth miles, are subjects of vital importance to the citizens of this Territory, by opening a water communication between the Mississippi and Lake Michigan. A communication between the Rock river and the Four Lakes, and from thence to the Wisconsin river, by a canal of sixteen miles in length, is considered practicable with but little expense. Steam boats have navigated the Wisconsin river during this season to the portage of the Wisconsin and Fox rivers, without obstruction.

The organizing and arming the militia I consider a subject of the first importance to the safety of the frontier citizens of this Territory. The militia of the territory have been formed into two brigades, composed of five regimental districts and one battalion district. Elections have been held for the field and company officers, and all the districts, with the exception of one regimental district, have been organized. Five companies of volunteer mounted riflemen, and one of dragoons, have been formed and officered. I earnestly recommend to the Legislative Assembly the propriety of addressing a memorial to the War Department of the Government, asking a supply of arms for the use of the volunteer companies now organized, and for the militia of the territory. I would suggest the propriety of asking

for four thousand stand of arms, one-half rifles, and the remainder muskets; and, in addition, I would propose that two hundred pistols and swords should be furnished for the use of volunteer companies of dragoons, with the addition of four light brass field pieces, not to exceed three hundred pounds in weight (three pounders) on carriages, with fixed ammunition for a campaign of four months. The Indians on the frontier of this territory are now in a state of peace, but such is the restless disposition of all Indians, that it is difficult to determine when they will commence their attacks on our frontier inhabitants. This is the proper time to make the necessary preparations to preserve the peace that now exists with them. From the great extent of the frontiers of this territory, and the numerous Indians located on our borders, it is important to the safety of the inhabitants, that protection should be afforded them by the Government, which can only be done by having a mounted force stationed at some suitable point on the Upper Mississippi, in advance of our most exposed settlements. Two hundred mounted troops, under the command of a field officer, would be sufficient to range the country from the Mississippi to the Red Cedar, Iowa, and Des Moines rivers. This movement of troops would be a direct check on the Indians who might be engaged in war with each other. Mounted troops ranging the country east of the Mississippi and south of the Wisconsin river to Fort Winnebago, would prevent the frequent incursions of the Indians upon the weak and unprotected settlements bordering on that frontier. I recommend, therefore, that a memorial be addressed to the War Department, requesting to have a mounted force posted in advance of the

frontier settlements as early in the next spring season as the grass will sustain the horses. The Indians on the borders of the frontier settlements must see and feel, if necessary, the power of the government to enforce a strict observance of treaties between them; and the presence of mounted troops will produce that dread in the minds of the Indians, which is necessary for the growth and prosperity of the territory, as well as the safety and security of its inhabitants.

The adjustment of the boundary line between the state of Missouri and this territory, has recently become a subject of much interest to the citizens residing in the southern part of Wisconsin. By the act of Congress of 1820, the limits of the state of Missouri were defined; and it was well understood by the members of the convention who formed the constitution of that state, "that the rapids of the river Des Moines," were the rapids on the Mississippi, near the mouth of that river, known in 1820 as the *Des Moines river rapids*, or *the rapids of the river Des Moines;* and the upper rapids on the Mississippi were known by the name of the *Rock river rapids.* It cannot be possible that the act of Congress above alluded to, defining the northern boundary of the state of Missouri, intended to make the starting point for that boundary at any rapids in the river Des Moines: because it is a fact well known, that there are rapids and swift running waters on the Des Moines river, for more than one hundred miles above its mouth; because in 1820 there was, it is believed, no place on the Des Moines river, known or designated as *the rapids of the river Des Moines;* and, because it was the general understanding in Congress, among the members of the convention framing the constitution of

the state of Missouri, and among all who were acquainted at that period with the names and localities of this country, that *the rapids of the river Des Moines* meant the rapids in the Mississippi, terminating near the mouth of the river Des Moines. That this was the understanding even in 1824, is shown by the treaty made on the fourth of August of that year, with the Sac and Fox tribes of Indians. In that treaty the north-western corner of the state of Missouri was fixed at one hundred miles due north of the mouth of the Kansas river; and a purchase of all the lands which the "Sac and Fox tribes have or claim within the limits of the state of Missouri," between the Mississippi and Missouri rivers, was limited on the north by a line drawn due east from that north-western corner to the Mississippi river, reserving, however, the "*small tract of land*" between the river Des Moines and Mississippi, and the section of that line between those rivers for the use of the half-breeds belonging to those nations. If it could have been imagined at the time of the ratification of that treaty by the Senate of the United States, that the northern boundary of Missouri was not fixed and known as then designated and laid down, but was to be hereafter determined by explorers and surveyors sent to search for rapids on the river Des Moines as far north on that river as they might be found, it is hardly probable that the Senators in Congress, from Missouri, at that time, known to have been vigilant in the discharge of their duties to their constituents, could have silently acquiesced in the ratification of this treaty in its present shape. From the express wording of the act of Congress designating the boundaries of the state of Missouri, that state can have no

pretensions to claim any part of the tract of country lying east or north-east of the Des Moines river. It is altogether a subject of great interest to the citizens of our territory residing near the boundary line in question, and it would seem to me necessary, that commissioners on the part of the general government should be appointed to act with commissioners on the part of Missouri to define as early as possible the true boundary line between this territory and the state of Missouri. It would certainly be an unpleasant state of things for the constituted authorities of this territory to come into collision with those of the state of Missouri: so far, however, as it rests with me, no encroachments on the rights of our citizens will be permitted, without resistance. I recommend the early action of the Legislative Assembly on this important subject; they will have the hearty co-operation of our able and faithful delegate in Congress, who, I am confident, will use every exertion in his power to maintain the rights of our citizens.

By the fourth section of the organic law of the Territory, it is made the duty of the Legislative Assembly to apportion the representation of the several counties to the Council and House of Representatives, according to population. As the term for which the members of the House of Representatives have been elected, will expire before the next annual meeting, the action of the Legislative Assembly will be necessary on that subject during their present session.

I would respectfully call the attention of the Legislative Assembly to the propriety of passing a law for the levying and collecting a county tax for the purpose of erecting jails in each of the organized counties in this territory, (where

jails may be required,) for the safe-keeping of prisoners, who may be committed to the sheriffs of the several counties. The due administration of the laws requires that courts of justice should have it in their power to restrain the vicious part of the community who set laws at defiance.

HENRY DODGE.

SPECIAL SESSION MESSAGE

JUNE 11, 1838

From Journal of the House of Representatives, Wis. Ter., p. 6

Fellow Citizens of the Council and House of Representatives:

You are convened for the purpose of making the apportionment of representation for the House of Representatives of this Territory, in conformity to the organic law of Congress creating the territorial government of Wisconsin, and in accordance with the law passed at the last session of the Legislative Assembly for taking the census or enumeration of the inhabitants by the several sheriffs of the different counties in this Territory.

The elective franchise of the people is the sacred palladium of our rights, the shield and helmet of our liberties, and the foundation upon which our republican institutions must exist; all should equally participate in the advantage of representation, according to numbers.

As the Legislative Assembly has been convened for a special purpose, it would not be proper for me to call your attention to any subjects not connected with the object for which you have met: except in cases where the public good might require your immediate action.

You have memorialized Congress, at your late session, on the most important subjects connected with the growth and prosperity of the Territory: for the extension of the right of pre-emption to our meritorious and enterprising

citizens, occupants of the public lands; the division of the Territory: asking appropriations of Congress for the construction of harbors on our Lake coast, the removal of the obstructions in the rapids of the Upper Mississippi; the adjustment of our Southern boundary line with the State of Missouri, and other important measures which are now pending before Congress, the result of which will be known before your annual session.

As Congress will probably not adjourn before the fifteenth of next month, I deem it my duty earnestly to recommend to the Legislative Assembly the justice and propriety of memorializing that body, at an early day of your session, asking the ratification, by the United States Senate, of the treaties made with the Winnebagoes, Sioux and Chippewa Indians, for the extinguishment of their title to country within the limits of this Territory. Until recently, no doubts were entertained of the ratification of the treaties in question.

From the proximity of the Winnebago Indians, to our border settlements, and their frequent depredations on the stock and other property of the inhabitants of the Territory, it has been with great difficulty that the citizens, who have been injured by them, could be restrained from killing them. It is a fact well known that the country owned by the Winnebago Indians, north of the Wisconsin River, would be of great value to the United States as well as to the citizens of Wisconsin, and is not suited to the state and condition of the Indians who claim it. From the intemperate and reckless character of the Winnebago Indians, I have no hesitation in saying that unless they are removed from

the country north of the Wisconsin River difficulties will ensue between them and the whites that will end in war. The Winnebago Indians own a country west of the Mississippi that affords game in abundance, and where they could remain in peace for years. A just regard for the rights of the people of Wisconsin requires that the Winnebagoes should be removed; the safety of the lives and property of our citizens demand it. Should troubles with our Indian neighbors commence, it is difficult to tell where they will stop. Our recent Indian wars have been at the price of much blood and treasure, and have we not a right to expect that the representatives of a great and intelligent nation will prevent a state of things that would be ruinous to the growth and prosperity of this Territory?

The purchase of country from the Chippewa Indians, east of the Mississippi, was made for the advantage of its extensive pine forests, bordering on the Chippewa and St. Croix rivers, and which is considered of the first importance to the people residing on the borders of the Mississippi, by affording them cheap and abundant supplies of pine lumber. Mills have already been erected in the Chippewa country, and several hundred individuals are now employed in preparing rafts of pine lumber; and should the treaty made with the Chippewas not be ratified, and the whites be immediately removed from the occupation of their country, we may expect that the Chippewa Indians will attack those whom they will consider as intruders on their rights.

Should the bill, now depending before the Congress of the United States, for the establishment of two land offices west of the Mississippi river, become a law; and should the

public lands be offered at sale under the proclamation of the President of the United States during the present year, many of our citizens who might be entitled to purchase the public lands, (should the right of pre-emption be extended to them,) would not be prepared to pay for their homes. I respectfully and earnestly recommend to the Legislative Assembly the justice and propriety of memorializing the President of the United States on this subject, asking him to defer the sale of the public lands within this Territory, for one year. The present state of the currency, and the difficulty of procuring land-office money, would justify the indulgence proposed for the benefit of this meritorious class of our citizens, who have a right to expect that justice and the patronage of the Government will be extended to them.

I recommend to you, gentlemen, dispatch in the discharge of your legislative duties; and you may expect my co-operation in all measures which have for their object the public good.

HENRY DODGE.

BURLINGTON, W. T., JUNE 11, 1838.

VETO MESSAGES

TO THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 1837

From the Journal of the House of Representatives, p. 199

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT,
December 20, 1837.

To the hon. the speaker of the House of Representatives:

Sir,—I return herewith "An act to establish the boundaries of the counties of Lee, Van Buren, Des Moines, Henry, Louisa, Wayne, and Slaughter, to locate the seats of justice for said counties, and for other purposes," presented for my approval on Saturday the 16th inst. and submit the following reasons for withholding my signature from the same.

By an act of the legislative assembly, of the last session, the counties of Lee, Van Buren, Des Moines, Henry, Louisa, Muscatine, and Cook were formed out of the territory embraced in the original county of Des Moines; and the county seats thereof (with the exception of Cook) were established in said act, which expires by its own limitation at the close of the present session.

The bill herewith returned, intends to supply the deficiency that would exist at the expiration of that law, fixes the boundaries by the course of streams and the United States' surveys; proposes no change in the location of the seats of justice of the counties of Lee, Des Moines, and

Henry, but removes the county seat of Van Buren from Farmington to Rochester, and the county seat of Muscatine (called Wayne in the bill) from Bloomington to Geneva. It is to these two changes of county seats that I particularly object. In a territory like ours great care and caution should be exercised in the location of the seats of justice in the first place; and where settlements are formed on the faith of our acts, changes should not, in my opinion, be made without the prospect of some substantial benefit to the people, and upon their wish unequivocally expressed to that effect. In the county of Van Buren, from the fact that Farmington (the present seat of justice) is by no means in the centre of the county, or its population, petitions have been presented from a large number of its citizens, in all of which some change is requested; and from the great increase of population in that county during the past season, it is necessary that some provision should be made by law for the establishment of the seat of justice of that county, at some point, to suit the wishes of a majority of its present inhabitants. There is not, however, any thing in our possession which could authorize us in singling out Rochester as that place; and I think in this, as in all cases of the kind where there is any doubt, it would be better and safer for the legislature not to take upon themselves the decision of so interesting a question, but to submit it to a vote of the people themselves. With regard to locating the county seat of Van Buren county, it would meet with my approbation if provision should be made for a direct vote of the people upon the question, or if the duty of locating the seat of justice should be given to some body

to be chosen by a vote of the qualified electors of the county.

In the county of Wayne, (formerly called Muscatine) the change from Bloomington to Geneva is unaccountable to me. I say this with all due deference and respect to the legislative assembly. There does not occur to me a single good reason for the proposed removal. The majority of the people of the county have not asked for it; on the contrary, a large majority of them have remonstrated in the strongest terms against it. It is not pretended that Geneva is a more eligible point on the Mississippi than Bloomington. They are about three miles distant from each other, and it cannot even be urged that Geneva is nearer the centre of the county than Bloomington, especially when the three townships lying immediately west of Wayne are included within its boundaries, as I shall hereafter suggest. The change cannot, therefore, meet with my sanction or approbation; and I am as yet informed of nothing which would authorize us in interfering at this time, with the present location of the seat of justice at Bloomington.

With respect to the boundaries of Wayne county, I would respectfully suggest that the western lines of the county should be extended so as to embrace townships 76, 77, and 78, north of range 4 west, the former of which by the present bill is placed in the unorganized county of Slaughter, and makes a bad offset; and the other two are not included in the limits of any county.

In entering thus minutely into the details and merits of the present bill, I feel myself fully justified by the powers vested in me by the organic law of this territory, which

constitutes the governor a distinct branch of the legislative authority, in addition to the duties imposed on him as the executive branch of the government; and I take the occasion to say that at all times in considering a bill submitted to me by the legislative assembly, I will not feel myself confined to an examination of the constitutionality of its provisions, but shall reserve to myself the right of giving my judgment upon its general expediency, and of giving or withholding my assent as circumstances may justify.

In the present instance, I wish it distinctly understood, that a bill similar in its features to that now returned, leaving, however, the seat of justice of Wayne county at Bloomington, and providing for some popular expression of opinion upon the proper point for the seat of justice in Van Buren county, will meet with my approbation and signature.

With great respect, your obedient servant,

HENRY DODGE.

TO THE COUNCIL

JANUARY 2, 1838

From the Journal of the Council, p. 108

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT,
BURLINGTON, January 2, 1838.

To the Hon. the President of the Council:

Sir — I have this day examined and approved "An act to establish the several towns in the counties of Milwaukee, Brown, and Racine, and the counties attached, for judicial

purposes," and "A memorial to Congress for an appropriation of twenty thousand dollars to complete the public buildings at the seat of Government." I return without my signature to the Council, (where it originated,) "A bill for laying out and establishing Territorial roads." I have no objections to urge against the provisions or details of the bill; my objection is to the phraseology of the title which reads "A bill to provide," &c, instead of "An act to provide." This alteration, I think, is required before it becomes a law.

Very respectfully, your obedient servant,

HENRY DODGE.

TO THE HOUSE OF REPRESENTATIVES

JANUARY 8, 1838

From the Journal of the House of Representatives, p. 280

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT,
BURLINGTON, January 8, 1838.

To the honourable, the speaker of the House of Representatives:

Sir,—I have this day examined and approved, "An act to divorce Mary Williams from her husband Thomas Williams;" and herewith return it to the House of Representatives, where it originated.

I have also returned, without my signature, "An act to incorporate the Dubuque Seminary," with my objection to the phraseology of the proviso attached to the fourth section of the bill, viz: "Provided they shall not contravene the constitution of the United States or of this territory."

The insertion of the words, "the laws," between the words "or" and "of," in this paragraph, seem to be necessary in order to render the sentence complete. To the provisions of the bill I have no objection.

HENRY DODGE.

TO THE HOUSE OF REPRESENTATIVES

JANUARY 9, 1838

From the Journal of the House of Representatives, p. 295

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT,
BURLINGTON, Jan. 9, 1838.

To the Hon. the Speaker of the House of Representatives:

Sir,—I have this day examined and approved "An act to incorporate the Wisconsin Insurance Company, at Green Bay," and return the same, herewith, to the House of Representatives.

I have had under examination, "An act relating to the militia and public defence of the territory of Wisconsin," and return the same with my objections thereto. In the 5th section of the 3d title, the certificate of a surgeon or surgeon's mate is made the evidence of an inability to bear arms, by the person claiming to be exempt by reason thereof; "but," reads the section, "such evidence shall not be conclusive;" nor is there any explanation of this inconsistency to be found elsewhere in the bill. Again, in the 9th and 10th sections of title 4, there is another inconsistency, viz: In the 9th section, the number of men required to compose a company of artillery, riflemen, &c., at each annual inspection, is forty; and, in the succeeding

section, thirty, only, is required. These are my principal objections to the bill: there are, however, minor ones, which I would direct your attention to, viz: in the 2d section of title 2, the word "clerk," is used in the stead of "secretary;" in the 30th section of title 4, "stand" is used for "standard;" and in title 7, article 1, section 2, the word "chapter" is used for "act." The various misspellings and clerical errors to be found throughout the bill, I do not deem it necessary to call your attention to.

HENRY DODGE.

TO THE HOUSE OF REPRESENTATIVES

JANUARY 20, 1838

From the Journal of the House of Representatives, p. 370

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT,
January 20, 1838.

To the Honourable, the Speaker of the House of Rep's.

Sir,—I return the act entitled "An act to amend an act entitled 'An act to establish the judicial districts of the territory of Wisconsin, and for other purposes, and to regulate the time of holding courts in the several counties of this territory,'" without my signature, because I am fearful that in changing the time of holding the courts no provision is made to prevent the abatement of suits, writs, and process which may have issued returnable on the days now established by law, and recommend, as a measure of safety, that a provision of the kind should be inserted.

Very respectfully,
Your ob't servant, HENRY DODGE.

SPECIAL MESSAGES

TO THE HOUSE OF REPRESENTATIVES

NOVEMBER 12, 1836

From the Journal of the House of Representatives, p. 49

EXECUTIVE DEPARTMENT, November 12th, 1836.

Sir: I have this day approved and signed "an act to authorise the legislative assembly to punish for contempt, and to privilege members from arrest;" and herewith return the same to the House of Representatives in which it originated.

H. DODGE.

To the Honorable the Speaker of the H. of Representatives.

TO THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 1836

From the Journal of the House of Representatives, p. 144

EXECUTIVE DEPARTMENT, December 7th, 1836.

To the Hon. the Speaker of the H. of Representatives:

Sir: I have this day approved and signed

"An act dividing the county of Des Moines into several new counties;"

"An act to locate and establish a territorial road on the west side of the Mississippi;" and

"An act to incorporate the Belmont and Du Buque Rail Road Company;"

And herewith transmit the same to the House of Representatives, in which they originated.

H. Dodge.

TO THE HOUSE OF REPRESENTATIVES

December 8, 1836

From the Journal of the House of Representatives, p. 147

Executive Department, December 8th, 1836

To the Honorable, the Speaker of the H. of the Representatives:

Sir: I have approved and signed the following acts, and herewith transmit them to the House of Representatives, in which they originated, viz:

"An act concerning the Supreme and District Courts, and defining their jurisdiction and powers;"

"An act to incorporate the Wisconsin Mineral and Transportation Company;" and

"An act to locate and establish a territorial road from Lake Michigan to Rock River."

H. Dodge.

TO THE COUNCIL

December 8, 1836

From the Journal of the Council, p. 94

Executive Department, December 8th, 1836

To the Honorable, the President of Council:

Sir,— I have approved and signed "An act to establish

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a University," and herewith return the same to your house where it originated.

H. Dodge.

TO THE COUNCIL

December 8, 1836

From the Journal of the Council, p. 95

Executive Department, December 8, 1836.

To the Honorable, the President of Council:

Sir — I have approved and signed the following acts, and herewith transmit the same to the Council in which they originated.

"An act to provide for the construction of a Bridge across Root river at Racine;"

"An act to authorize Matthias Hamm and Horace Smeed to establish a Ferry across the Mississippi river;"

"An act to modify and continue in force certain laws of Michigan;" and,

"An act to incorporate the Pekatonika Copper mining Company."

H. Dodge.

TO THE COUNCIL

November 13, 1837

From the Journal of the House of Representatives, p. 46

Executive Department, November 13, 1837.

To the Honourable, the President of the Council:

Sir, I have the honour to transmit, for the consideration of the Council, a copy of the resolves of the Legisla-

ture of Massachusetts respecting the franking privilege, presented by the Executive of that State.

With great respect, your obed't serv't

HENRY DODGE.

COMMONWEALTH OF MASSACHUSETTS,

In the year one thousand eight hundred and thirty-seven.

RESOLVES RESPECTING THE FRANKING PRIVILEGE.

Resolved, That the franking privilege should be extended to the Governors of the several States, and to the Secretaries thereof, and, also, to the chief clerks of both branches of the several State Legislatures.

Resolved, That his Excellency the Governor be requested to transmit a copy of these resolves to each of our Senators and Representatives in Congress, and to the Governors of the several States.

Passed. House of Representatives, April 19, 1837.

JULIUS ROCKWELL, Speaker.

Passed. In Senate, April 19, 1837.

HORACE MANN, President.

April 20, 1837.—Approved. EDWARD EVERETT.

A true copy.—Attest, JOHN P. BIGELOW,

Secretary of the Commonwealth.

TO THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 1837

From the Journal of the House of Representatives, p. 70

EXECUTIVE DEPARTMENT, BURLINGTON, NOV. 17, 1837.

Sir — In reply to a call made by the House of Representatives on the following resolution:

"Resolved, That the Executive of the territory be requested to furnish this House with a copy of any correspondence he may have had with the Executive of the State of Missouri, upon the subject of the boundary line between that state and this territory; and also with a copy of the correspondence upon the same subject between him and the President of the United States, as far as he may deem the communication of the same compatible with the public interest."

I have the honour to state to the House of Representatives that I have received no communication from the President of the United States or the Governor of the state of Missouri, in relation to the boundary line, the subject of the resolution in question.

I am, with great respect, your ob't serv't.

HENRY DODGE.

To the Hon. Isaac Leffler, Speaker of the House of Reps.

TO THE COUNCIL

NOVEMBER 24, 1837

From the Journal of the Council, p. 43

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT,
BURLINGTON, Nov. 24, 1837.

Sir—I have examined and approved "A memorial to Congress for an appropriation for the construction of a harbor at the mouth of Root river, on lake Michigan," and herewith return the same to the Council where it originated.

Very respectfully, your obedient servant,

HENRY DODGE.

To the Honorable, the President of the Council.

TO THE COUNCIL

NOVEMBER 28, 1837

From the Journal of the Council, p. 47

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT,
BURLINGTON, Nov. 28, 1837.

Sir—I have examined and approved "A memorial to Congress, praying that the right of pre-emption may be granted to the occupants of mineral lands;" also, "A resolution relative to the franking privilege;" and a "resolution, authorizing the Secretary of the Territory to expend the unexpended balance, appropriated for the use of the late Secretary, for rent of office and furniture;" and herewith return the same to the Council, where they originated.

Very respectfully, your obedient servant,

HENRY DODGE.

To the Hon. the President of the Council.

TO THE COUNCIL

DECEMBER 6, 1837

From the Journal of the Council, p. 58

To the Hon. the President of the Council:

TER. OF WIS., EXECUTIVE DEPARTMENT,
BURLINGTON, Dec. 6, 1837.

Sir—I have examined and approved "A memorial praying for the construction of harbors at Twin, Manitoowoc and Sheboyagan rivers," and herewith return the same to the Council where it originated.

With great respect, your obed't serv't,

HENRY DODGE.

TO THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 1837

From the Journal of the House of Representatives, p. 158

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT,
BURLINGTON, Dec. 8, 1837.

To the Hon. the Speaker of the House of Representatives:

Sir — I have examined and approved,

"An act to divorce Mary M'Arthur from her husband, John M'Arthur," and

"A memorial in favour of John Hood;"

And herewith return the same to the House of Representatives, in which they originated.

Very respectfully your ob't. serv't.

HENRY DODGE.

TO THE COUNCIL

DECEMBER 9, 1837

From the Journal of the Council, p. 67

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT,
BURLINGTON, Dec. 9, 1837.

To the Hon. the President of the Council:

Sir — I have this day examined and approved "An act to divorce Armstead W. Floyd from his wife Eleanor Floyd;" and "Resolution relative to the publication of laws in the several papers of this Territory;" and herewith transmit the same to the Council where they originated.

Very respectfully, your obedient servant,

HENRY DODGE.

TO THE COUNCIL

DECEMBER 13, 1837

From the Journal of the Council, p. 68

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT,
BURLINGTON, Dec. 13th, [1837]

To the Honorable the President of the Council:

Sir—I have this day examined and approved "An act to establish the Wisconsin University of Green Bay," and "An act to enforce the payment of certain moneys into the several county treasuries;" and herewith return the same to the Council where they originated.

Very respectfully, your ob't sv't.

HENRY DODGE.

TO THE HOUSE OF REPRESENTATIVES

DECEMBER 18, 1837

From the Journal of the House of Representatives, p. 180

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT,
BURLINGTON, Dec. 18, 1837.

To the Hon. the Speaker of the House of Representatives:

Sir,—"An act to establish the boundaries of the counties of Lee, Van Buren, Des Moines, Henry, Louisa, Wayne, and Slaughter, to locate the seats of justice of said counties, and for other purposes," was presented for my examination and approval on the 16th inst. I respectfully ask of the house, of which you are the organ, to furnish me with all petitions which have been presented to your body in relation to the aforesaid act.

Very respectfully,

Your ob't serv't, HENRY DODGE.

TO THE HOUSE OF REPRESENTATIVES

JANUARY 2, 1838

From the Journal of the House of Representatives, p. 255

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT,
BURLINGTON, Jan. 2, 1838.

To the Hon. the Speaker of the House of Representatives:

Sir,—I have this day examined and approved "An act to provide for the sale of the land on which the seat of justice of Racine county is located," and herewith return the same to the House of Representatives.

Very respectfully,
Your obedient servant,
HENRY DODGE.

TO THE HOUSE OF REPRESENTATIVES

JUNE 15, 1838

From the Journal of the House of Representatives, p. 22

EXECUTIVE DEPARTMENT, BURLINGTON, June 15, 1838.

To the Speaker of the House of Representatives:

Sir: By the eighteenth section of the act of the Legislative Assembly, approved December 21, 1837, "to establish the boundary lines of the counties of Dubuque, Clayton, Jackson, Benton, Linn, Jones, Clinton, Johnson, Scott, Delaware, Buchanan, Cedar, Fayette, and Keokuck, and to provide for the location of the Seats of Justice in said counties, and for other purposes," it is provided that "the Seat of Justice in the county of Scott shall, from and after

the first day of April next, be established either at Davenport or Rockingham, as may be decided by the qualified voters of said county, as is hereinafter provided."

Under the provisions of the law in question, elections were held in the said county of Scott, and by the returns made by the Deputy Clerk of the District Court for the county of Dubuque, it appeared that the town of Davenport received two hundred and ninety votes, and the town of Rockingham one hundred and eighty four votes. By the act referred to, it was made the duty of the Governor, on the receipt of the returns, to issue a proclamation declaring the result, and the place fixed by the vote of the people residing within the boundaries of Scott county, as the Seat of Justice thereof.

This proclamation has not as yet been issued in consequence of complaints of fraud in conducting the elections, which are in my opinion sufficiently well grounded to justify me in withholding the Proclamation until the Legislative Assembly shall have had an opportunity of investigating these grave charges, and taking some action on the subject. From a written statement, signed by eight of the Justices of the Peace for Scott county, as well as from various communications and affidavits sent me, it was apparent to me that illegal votes had been taken at Davenport in favor of that place as the Seat of Justice for Scott county, that were residing out of the county and out of the Territory, had been brought to the polls to vote for Davenport.

That the subject of locating the Seat of Justice of Scott county should receive the careful revision of the Legislative Assembly, during the present extra session, I herewith

send all the documents and communications which I have received concerning the frauds practised at this election.

HENRY DODGE.

TO THE HOUSE OF REPRESENTATIVES

JUNE 18, 1838

From the Journal of the House of Representatives, p. 38

EXECUTIVE DEPARTMENT, June 18th, 1838.

To the Honorable the Speaker of the House of Representatives:

Sir: I have examined and approved a memorial and resolution of the following titles, and herewith transmit the same to the House of Representatives, where they originated; namely:

Memorial to the President of the United States on the subject of the public lands within the Territory of Wisconsin; and, Resolution authorizing the Secretary of the Territory to borrow money to defray the expenses of the present session of the Legislative Assembly.

With great respect,

Your ob't servant, HENRY DODGE.

TO THE HOUSE OF REPRESENTATIVES

JUNE 20, 1838

From the Journal of the House of Representatives, p. 42

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT, June 20th, 1838.

To the Speaker of the House of Representatives:

Sir: I enclose you a copy of my proclamation, with the

receipt of the Sheriff of Grant county in this Territory, for the delivery of the bodies of Jacob Durick and William Colley, fugitives from justice, charged with the crime of murder, and recommend that the sum of two hundred dollars be allowed to M. C. Martin, for the apprehension and delivery of the said fugitives to the civil authorities of Grant county.

You will receive also enclosed the account of M. C. Martin with the deposition of certain witnesses.

I am, with great respect,

Your obedient servant,

HENRY DODGE.

TO THE HOUSE OF REPRESENTATIVES

JUNE 20, 1838

From the Journal of the House of Representatives, p. 49

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT,
June 20, 1838.

Sir—I have examined and approved the following acts and resolution, and herewith return the same to your House where they originated, viz:

An act to render legal the acts of the county commissioners of the counties of Clayton and Dubuque; an act to amend an act entitled an act to incorporate the Portage canal company, passed by the Legislative Council of the Territory of Michigan, and approved March 7th, 1831.

Resolution to authorize the purchase of 300 copies of Maj. Cooper's book on tactics for the use of the militia of this territory.

HENRY DODGE.

TO THE HOUSE OF REPRESENTATIVES

JUNE 23, 1838

From the Journal of the House of Representatives, p. 65

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT,
June 23d, 1838.

To the Hon. the Speaker of the House of Representatives:

Sir,—I have this day approved and signed the following, and herewith return them to your House, where they originated, viz:

"An act to annul the marriage contract of Jonathan J. King and Abigail King, his wife."

"An act supplementary to an act to locate and establish a territorial road east of the Mississippi river."

"An act to establish the seat of justice of Scott county."

"An act to make legal the acts of certain justices of the peace."

"An act to locate a territorial road in Grant and Iowa counties."

"An act supplementary to an act to locate and establish a territorial road from the town of White Oak Springs in Iowa county, to the Blue Mounds in Dane county; and

"An act to authorize James Clayborn to keep a ferry across the Mississippi river, at the town of Camanche."

Very respectfully,

HENRY DODGE.

TO THE HOUSE OF REPRESENTATIVES

JUNE 23, 1838

From the Journal of the House of Representatives, p. 67

TERRITORY OF WISCONSIN, EXECUTIVE DEPARTMENT,
June 23d, 1838.

To the Hon. the Speaker of the House of Representatives:

Sir,—I have this day examined and approved the following, and herewith return them to your House, viz:

"An act to amend an act regulating marriages," approved April 23, 1833.

"An act to locate a territorial road east of the Mississippi river."

"An act to locate a territorial road in the county of Iowa."

Very respectfully,

HENRY DODGE.

PROCLAMATIONS

ON THE APPORTIONMENT OF MEMBERS OF THE COUNCIL AND HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 1836

From the Laws of Wisconsin Territory, 1836, p. 13

To all to whom these presents shall come, greeting:

Know ye, that I, HENRY DODGE, governor of the territory of Wisconsin, by virtue of the power in me vested by the act of congress, passed on the 20th day of April, 1836, for the organization of the said territory of Wisconsin, having caused the census of said territory to be taken according to the provisions of said act—Therefore, I do hereby proclaim and declare, that I have apportioned the members of the council and house of representatives, amongst the several counties of the territory, as follows, viz:

To the county of Des Moines, seven members of the house of representatives, and three members of the council.

To the county of Du Buque, five members of the house of representatives, and three members of the council.

To the county of Iowa, six members of the house of representatives, and three members of the council.

To the county of Brown, three members of the house of representatives, and two members of the council.

To the county of Milwaukee, three members of the house of representatives, and two members of the council; and

To the county of Crawford, two members of the house of representatives.

And, I do further order and direct that the first election of the said members of the house of representatives and council, shall be held on the second Monday of October next ensuing — and that the sheriffs of the several counties within said territory, shall, within their respective counties, give at least ten days previous notice of the holding said election, by publishing the same in one or more newspapers, in each of said counties, if any there be, or by putting up at least five written or printed notices in each and every precinct hereinafter established in each of said counties.

And it is also further ordered, that for the more orderly conducting of said election, the electors present, on the day and at the place of election, may elect any three persons (who shall be voters) to preside at and conduct said elections, and in the absence of a justice of the peace or other officer authorized to administer oaths, they, the said inspectors, are hereby authorized to administer to each other the usual oath of inspectors of elections, and the said inspectors shall appoint one or more competent clerks of said elections, who shall keep a correct poll-list of the voters of said election.

And it is further directed, that the poll-lists of said election shall be (within three days thereafter,) certified and sent by said inspectors to the sheriffs of the several counties, —that the said poll books and returns shall also be certified and sent by the said sheriff, (within six days after their receipt,) to the governor of said territory, at Belmont, Iowa county — that the person or persons having the greatest number of votes for the said council and house of

representatives, equal to the number to which each county may be entitled, shall be duly elected,—and a certificate to that effect shall be given by the sheriffs of the several counties to the members elect; and in case of there being a tie between two or more persons, such fact shall be stated by said sheriffs.

And, I do further order and direct that the members elected from the several counties for representatives and council shall convene at Belmont, in the county of Iowa, on the 25th day of October, next ensuing, for the purpose of organizing the first session of the legislative assembly of said territory.

And I do also direct and appoint that at the same time and place, above specified, for electing the members of said legislature, there shall be elected by the voters of the several counties, one delegate to the congress of the United States, for the term of two years, agreeable to the fourteenth section of the act of congress, and that the election for said delegate shall be conducted, and the returns made in the same manner, as near as may be, as is prescribed for the election of said members of the legislature.

In testimony whereof, I have hereunto set my hand and affixed my seal, this ninth day of September, A. D., 1836.

H. Dodge.

THE ELECTION OF MEMBERS OF THE COUNCIL

OCTOBER 25, 1836

From the Laws of Wisconsin Territory, 1836, p. 14

To all whom these presents shall come, greeting:

Know ye, That I, HENRY DODGE, Governor of the Territory of Wisconsin, by virtue of the power in me vested by the act of congress, passed on the 10th of April, 1836, for the organization of the said territory, having caused elections to be held in the several counties of this territory on the 10th inst. for members to the council and house of representatives, as well as a delegate to the congress of the United States, as provided for by said act, do hereby declare and make known that the following named gentlemen are duly elected members of the said council from the several counties herein mentioned, viz:

From the county of Brown, Henry S. Baird and John P. Arndt.

From the county of Milwaukee, Gilbert Knapp and Alanson Sweet.

From the county of Iowa, Ebenezer Brigham, John B. Terry and James R. Vineyard.

From the County of Dubuque, John Foley, Thomas M'Craney and Thomas McKnight.

From the County of Des Moines, Jeremiah Smith, Jr., Joseph B. Teas and Arthur B. Inghram.

Given under my hand and seal, at Belmont, this 25th October, 1836.

H. DODGE.

ON THE ELECTION OF REPRESENTATIVES

October 25, 1836

From the Laws of Wisconsin Territory, 1836, p. 15

To all whom these presents shall come, greeting:

Know ye, That I, Henry Dodge, Governor of the Territory of Wisconsin, by virtue of the power in me vested by the act of congress, passed on the 10th April, 1836, for the organization of the said territory, having caused elections to be held in the several counties of this territory on the 10th inst., for members of the council and house of representatives, as well as a delegate to the congress of the United States, as provided for by said act, do hereby declare and make known, that the following named gentlemen were duly elected members of the said house of representatives, from the several counties herein mentioned, viz:

From the county of Brown, Ebenezer Childs, Albert G. Ellis and Alexander J. Irwin.

From the county of Milwaukee, William B. Sheldon, Madison W. Cornwall and Charles Durkee.

From the county of Iowa, William Boyles, G. F. Smith, D. M. Parkinson, Thos. M'Knight, T. Shanley and J. P. Cox.

From the county of Crawford, James H. Lockwood and James B. Dallam.

From the county of Dubuque, Loing Wheeler, Hardin Nowlin, Hosea T. Camp, P. H. Engle and Patrick Quigley.

From the county of Des Moines, Isaac Leffler, Thomas

Blair, Warren L. Jenkins. John Box, George W. Teas, Eli Reynolds and David R. Chance.

Given under my hand and seal at Belmont this 25th of October, 1836. H. Dodge.

ON THE ELECTION OF DELEGATE TO CONGRESS

November 1, 1836

From the Belmont Gazette, Vol. I, No. 3, Nov. 9, 1836

To all whom these presents shall come—Greeting:

Know ye, that I, Henry Dodge, Governor of the Territory of Wisconsin, in conformity with the organic law of Congress establishing this Territorial Government, approved the 20th day of April, 1836, have caused elections to be held in the several counties of this Territory for a Delegate to the House of Representatives of the United States, to serve for the term of two years, and, I do hereby declare and make known that George W. Jones, Esquire, has been duly elected a Delegate as aforesaid, agreeably to the 14th section of said organic law.

Given under my hand and seal at Belmont, this first of November, 1836. H. Dodge.

OFFERING A REWARD

December 27, 1836

From the Belmont Gazette, Vol. I, No. 9, Dec. 28, 1836

FOUR HUNDRED DOLLARS REWARD

Whereas, It has been represented to me, that one Henry O. Hammill, charged with the crime of murder, in

the county of Des Moines, in this Territory, is now a fugitive from justice—said Hammill, is about 22 years of age, five feet ten inches high, and of a sandy complexion; and that NICHOLAS HARMAN, charged with the crime of murder, in the same county, is also a fugitive from justice—said Harman is about 50 years of age, about 5 feet 10 inches high, and of a dark complexion; now, therefore, I, Henry Dodge, Governor of the Territory of Wisconsin, by virtue of the power in me vested, by the Congress of the United States, and the laws of this Territory, do hereby make known, that the above reward of four hundred dollars, will be given for the apprehension and delivery to the Sheriff of Des Moines county, of the said Hammill and Harman, or two hundred dollars for either, in order that they may be brought to trial for the crime with which they stand charged.

(L. S.) In testimony Whereof, I have hereunto signed my hand, and caused the Seal of the Territory to be affixed. Done at Belmont, the 27th day of December.

H. DODGE.

By the Governor.

JOHN S. HORNER,

Secretary of the Territory of Wisconsin.

The *Missouri Argus* and *Illinois State Register* are requested to insert the above 4 times, and forward their accounts to the Secretary of the Territory.

Dec. 28.

ESTABLISHING A SEAT OF JUSTICE

FEBRUARY 1, 1837

From the Belmont Gazette, Vol. I, No. 17, Feb. 22, 1837

WHEREAS, by an act of the Legislative Assembly, entitled "An act to change the seat of justice of Brown county," approved December 9th, 1836, authority is given to the qualified voters of said county to hold an election for the purpose of selecting one of the places named in the first section of the act, viz: Astor Navavino or Depere, as the future seat of justice for said county; the election to be conducted and the returns thereof made and certified in manner therein prescribed; the Governor of the Territory is thereupon to "issue his proclamation, declaring the result, and the place fixed by the vote of the people of Brown county, as the seat of justice thereof."

And whereas, in compliance with the provisions of said act, the qualified voters of said county did, on the third Monday in January, 1837, proceed to hold an election for the purpose aforesaid; the returns whereof having been duly certified to me by the clerk of the district court of said county, it doth appear that the town of Depere has received a large majority of the votes of said county.

Now therefore, by virtue of the authority vested in me by said act, and in conformity with the returns of said election, made and certified according to law, I do hereby issue this proclamation, establishing the seat of justice of the said county of Brown at Depere, from and after the first day of April next.

In testimony whereof, I have hereunto set my

(L. S.) hand and caused the great seal of the Territory to be affixed.

Done at Belmont the first day of February, in the year of our Lord 1837, and of the Independence the sixty first.

H. Dodge.

By the Governor,
John S. Horner,
Secretary of the Territory.

OFFERING A REWARD

April 1, 1837

From the Belmont Gazette, Vol. I, No. 24, April 12, 1837

Whereas, it has been represented to me that Linden B. McOmber, charged with the crime of murder, in the county of Iowa, in the Territory of Wisconsin, made his escape from the jail of Crawford county, on the morning of the 20th ult, and is now a fugitive from justice. Said McOmber is about 25 or 26 years of age, 5 feet 8 or 9 inches in height, heavy built, sandy complexion, dark reddish beard, blue eyes, and hair inclined to curl. It is said that his back is much scarified, and that one of his hips is branded with the letter D.

Now therefore, I, Henry Dodge, Governor of the said Territory, by virtue of the power in me vested by the Congress of the United States and the laws of said Territory, do hereby make known, that the above named reward of two hundred dollars will be given for the apprehension and delivery of the said McOmber to the Sheriff of Iowa county,

in order that he may be brought to trial for the crime with which he stands charged.

In testimony whereof, I have hereunto set my (L. S.) hand and caused the great seal of the territory to be affixed.

Done at Belmont, this first day of April, in the year of our Lord, one thousand eight hundred and thirty seven, and of the Independence of the United States the sixty first.

By the Governor, H. Dodge.

John S. Horner,

Secretary of Wisconsin Territory.

ON ELECTION TO FILL A VACANCY IN THE HOUSE OF REPRESENTATIVES

May 31, 1837

From the Iowa News, Vol. I, No. 2, June 10, 1837

Whereas, it is provided, in the 4th section of an act of the Legislative Council of Michigan, entitled "An Act to district the Territory of Michigan, and to provide for the election of members of the Legislative Council," confirmed by an act of the Legislative Assembly of the Territory of Wisconsin, entitled "An Act to amend and adopt the several laws of this Territory for the several judiciary tribunals, for the purpose of giving said laws full force and effect according to the provisions thereof," approved December 8th, 1836, that in case of any vacancy of any member of the Legislative Council of said Territory, by death or other cause, it shall be the duty of the Governor to order, by Proclamation, another election in that district, where such

vacancy shall happen; and whereas, a vacancy has occurred in the delegation to the House of Representatives of this Territory from the county of Du Buque, by the death of Hosea T. Camp, late a member thereof, from said county.

Now therefore, by virtue of the authority vested in me by the President of the United States, and the laws of this Territory, I do hereby issue this Proclamation, ordering an election to be on Monday the 10th Day of July next, at the several places within the said county designated for holding elections, for the purpose of choosing a Representative to the next Legislative Assembly, to supply the vacancy occasioned by the death of Hosea T. Camp—the said election in all things to be conducted, and the result certified and declared, in the same manner, as near as may be agreeably to the provisions of an act of the Legislative Council of Michigan, entitled "An Act to regulate the election of a Delegate to the Congress of the United States," confirmed by an act of the Legislative Assembly of the Territory of Wisconsin, approved December 8th, 1836.

In testimony whereof, I have hereunto set my
(L. S.) hand and caused the great seal of the Territory to be affixed.

Done at Mineral Point, this thirty-first day May, in the year of our Lord one thousand eight hundred and thirty-seven, and of the Independence of the United States the sixty-first.

Henry Dodge.

By the Governor;
W. B. Slaughter, Sec. W. T.

ON ELECTION TO FILL A VACANCY IN THE COUNCIL

JUNE 27, 1837

From Original MS. in the Governor's Office at Madison, Wisconsin

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On this day His Excellency, Governor Dodge, issued the following Proclamation:

WHEREAS, it is provided in the 4th section of an act of the Legislative Council of Michigan entitled "An act to district the Territory of Michigan, and to provide for the election of members of the Legislative Council." confirmed by an act of the Legislative Assembly of the Territory of Wisconsin entitled "An act to amend and adopt the several laws of this Territory for the several judiciary tribunals, for the purpose of giving said laws full force and effect, according to the provisions thereof." approved December 8th, 1836, that in case of any vacancy of any member of the Legislative Council of said Territory by death or other cause, it shall be the duty of the Governor to order by proclamation another election in the district where such vacancy shall happen; and whereas a vacancy has occurred in the Delegation to the Council of this Territory from the district composed of the original county of Brown by the Resignation of Henry S. Baird, late a member thereof from said district.

Now therefore, by virtue of the authority vested in me by the President of the United States, and the laws of this Territory, I do hereby issue this proclamation, ordering an election to be held on Saturday, the second day September next, at the several places, within the said district, desig-

nated for holding elections, for the purpose of choosing a member of Council to the next Legislative Assembly to supply the vacancy occasioned by the resignation of the said Henry S. Baird, the said election in all things to be conducted, and the result certified and declared in the same manner as near as may be agreeably to the provisions of an act of the Legislative Council of Michigan, entitled "An act to regulate the election of a delegate to the Congress of the United States." confirmed by an act of the Legislative Assembly of the Territory of Wisconsin as aforesaid.

In testimony whereof, I have hereunto set my
(L. S.) hand, and caused the great seal of the Territory to be affixed.

Done at Mineral Point this twenty seventh day of June in the year of our Lord one thousand eight hundred and thirty seven, and of the Independence of the United States the sixty first.

HENRY DODGE.

By the Governor
W. B. SLAUGHTER
Secy. Wis. Territory.

ON ELECTION TO FILL A VACANCY IN THE HOUSE OF REPRESENTATIVES

JULY 4, 1837

From Original MS. in the Governor's Office at Madison, Wisconsin

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On this day His Excellency, Governor Dodge, issued the following Proclamation:

WHEREAS, it is provided in the 4th section of an act of the Legislative Council of Michigan, entitled "An act to district the Territory of Michigan, and to provide for the election of members of the Legislative Assembly." confirmed by an act of the Legislative Assembly of the Territory of Wisconsin, entitled "An act to amend and adopt the several laws of this Territory for the several judiciary tribunals for the purpose of giving said laws full effect, according to the provisions thereof," approved December 8th, 1836, that in case of any vacancy of any member of the Legislative Council of said Territory by death or other cause, it shall be the duty of the Governor to order by proclamation, another election in that district, where such vacancy shall happen; and whereas, a vacancy has occurred in the Delegation to the House of Representatives of this Territory from the county of Brown, by the resignation of Albert G. Ellis, late a member thereof from said county.

Now therefore, by virtue of the authority vested in me by the President of the United States, and the laws of this Territory, I do hereby issue this proclamation, ordering an election to be held on Saturday, the second day of September next, at the several places within the said county of Brown designated for holding elections, for the purpose of choosing a Representative to the next Legislative Assembly, to supply the vacancy occasioned by the resignation of said Albert G. Ellis, the said election in all things to be conducted, and the result certified and declared, in the same manner, as near as may be agreeably to the provisions of an act of the Legislative Council of Michigan, entitled "An act to regulate the election of a Delegate to the Congress of

the United States." confirmed by an act of the Legislative Assembly of the Territory of Wisconsin as aforesaid.

In testimony whereof, I have hereunto set my
(L. S.) hand and caused the great seal of the Territory to be affixed.

Done at Mineral Point, this fourth day of July in the year of our Lord one thousand eight hundred and thirty seven, and of the Independence of the United States the sixty first.

HENRY DODGE.

By the Governor
W. B. SLAUGHTER
Secy. Wis. Territory.

ON ELECTION TO FILL A VACANCY IN THE HOUSE OF REPRESENTATIVES

AUGUST 12, 1837

From Original MS. in the Governor's Office at Madison, Wisconsin

On this day His Excellency, Gov. Dodge, issued the following Proclamation:

WHEREAS, it is provided in the 4th section of an act of the Legislative Council of Michigan, entitled "An act to district the Territory of Michigan and to provide for the election of members of the Legislative Council." confirmed by an act of the Legislative Assembly of the Territory of Wisconsin, entitled "An act to amend, and adopt the several laws of this Territory for the several judiciary tribunals, for the purpose of giving said laws full force and effect

according to the provisions thereof." approved December 8th, 1836, that in case of any vacancy of any member of the Legislative Council of said Territory, by death or other cause, it shall be the duty of the Governor, to order, by proclamation another election in that district where such vacancy shall happen; and whereas, vacancies have occurred in the Delegation to the House of Representatives of this Territory, from the county of Crawford, by the resignation of James H. Lockwood and James B. Dallam, late members thereof from said county.

Now therefore, by virtue of the authority vested in me by the President of the United States, and the laws of this Territory, I do hereby issue this proclamation, ordering an election to be held on Friday, the twenty ninth day of September next, at the several places within the said county of Crawford, designated for holding elections, for the purpose of choosing Representatives to the next Legislative Assembly to supply the vacancy occasioned by the resignations of the said James H. Lockwood and James B. Dallam, the said election in all things to be conducted, and the result certified, and declared, in the same manner, as near as may be agreeably to the provisions of an act of the Legislative Council of Michigan entitled "An act to regulate the election of a Delegate to the Congress of the United States." confirmed by an act of the Legislative Assembly of the Territory of Wisconsin as aforesaid.

In testimony whereof, I have hereunto set my
(L. S.) hand and caused the great seal of the Territory to be affixed.

Done at Mineral Point, this 12th day of August in the

year of our Lord one thousand, eight hundred and thirty seven, and of the Independence of the United States the sixty second.

HENRY DODGE.

By the Governor
W. B. SLAUGHTER
Secy. Wis. Territory.

REVOKING A COMMISSION

DECEMBER 25, 1837

From Original MS. in the Governor's Office at Madison, Wisconsin

His Excellency, Governor Dodge, this day issued the following Proclamation:

To all whom these presents shall come, greeting:

Whereas Daniel Wells Junior was on the 5th day of December, 1836, duly appointed and commissioned a justice of the peace, for the county of Milwaukee for the term of three years from the date aforesaid and whereas it has been represented to me that the said Daniel Wells Junior does not and will not attend to the duties of his said commission.

Now therefore, by the authority vested in me and the laws thereof and in consideration of the aforesaid premises, I do hereby revoke and determine the commission of the said Daniel Wells from and after the date of these presents.

In testimony whereof I have hereunto set my
(SEAL) hand and caused the great seal of the Territory to be affixed.

Done in the year of our Lord one thousand eight hundred and thirty seven and of the Independence of the United States the sixty second.

HENRY DODGE.

OFFERING A REWARD

FEBRUARY 16, 1838

From Original MS. in the Governor's Office at Madison, Wisconsin

Whereas, it has been represented to me that a certain Lindsey Evans principal & Jacob Derrick & William Colby (accomplices) charged with the crime of murder in the county of Grant in this Territory are now fugitives from justice:

Now therefore, I, Henry Dodge, Governor of the said Territory, by virtue of the power vested in me by the Congress of the United States and the laws of this Territory do hereby make known that the above reward of four hundred dollars will be given for the apprehension & delivery to the Sheriff of Grant county of the said Evans Derrick & Colby, or two hundred dollars for the principal, and one hundred dollars each for the accomplices in order that they may be brought to trial for the crime with which they stand charged.

In testimony whereof I have hereunto signed my hand & caused the great seal of the Territory to be affixed.

Done at Mineral Point this 16th of Feb., 1838.

HENRY DODGE.

By the Governor.

ON ELECTION TO FILL A VACANCY IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1838

From Original MS. in the Governor's Office at Madison, Wisconsin

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On this day His Excellency, Governor Dodge, issued the following Proclamation:

To the Sheriff of the County of Iowa.

Whereas it is provided in the nineteenth section of an act providing for and regulating general elections in the Territory approved the seventeenth day of January last that when any vacancy shall happen in the office of members of the Council and House of Representatives of the Legislative Assembly the Governor shall issue a writ of election directed to the Sheriff of the county or district in which such vacancy shall happen commanding him to notify the several Judges of Election in his county or district to hold a special election to fill such vacancy at a time to be appointed by the Governor and whereas a vacancy has occurred in the office of members of the House of Representatives from the district composed of the organized county of Iowa by the resignation of George F. Smith late member of the House of Representatives from the said district. Now in conformity with the provisions of the aforesaid act you are hereby commanded to notify the several judges of election in the said district to hold a special election to fill such vacancy on Monday the 4th day of May next.

In testimony whereof, I have hereunto set my
(SEAL) hand and caused the great seal of the Territory to be affixed.

Done at Mineral Point the twenty fourth day of February in the year of our Lord one thousand eight hundred and thirty eight.

HENRY DODGE.

By the Governor.

(Signed) WM. B. SLAUGHTER.
Secty Wis. Territory.

ON ELECTION TO FILL A VACANCY IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1838

From Original MS. in the Governor's Office at Madison, Wisconsin

To the Sheriff of the County of Dubuque.

Whereas it is provided in the nineteenth section of an act providing for and regulating general elections in this Territory approved the seventeenth day of January last that when any vacancy shall happen in the office of members of the Council and House of Representatives of the Legislative Assembly by death resignation or otherwise, the Governor shall issue a writ of election directed to the Sheriff of the county or district in which such vacancy shall happen commanding him to notify the several judges of election in his county or district to hold a special election to fill such vacancy or vacancies at a time to be appointed by the Governor and whereas vacancies happened in the offices of members of the House of Representatives from the district composed of the original county of Dubuque by the resignation of Patrick Quigley and Alexander McGregor late

members of the House of Representatives from the said district.

Now therefore in conformity with the provisions of the aforesaid act you are hereby commanded to notify the several judges of election in the said district to hold a special election to fill said vacancies on Monday the fourth day of May next.

In testimony whereof, I have hereunto set my (SEAL) hand and caused the great seal of the territory to be affixed.

Done at Mineral Point this twenty-fourth day of February in the year of our Lord one thousand eight hundred & thirty eight.

HENRY DODGE.

By the Governor

WM. B. SLAUGHTER.

Secty. Wis. Territory.

GOVERNOR ROBERT LUCAS

BIOGRAPHICAL SKETCH

Robert Lucas, the first Governor of the Territory of Iowa, was born at Shepherdstown in the valley of Jefferson, Jefferson County, Virginia, on April 1, 1781. His father, who served in the war of the Revolution with the rank of Captain, is said to have been a descendant of William Penn, of Pennsylvania. His mother was of Scotch descent. Robert was the ninth of a family of twelve children, six of whom were sons.

About the time Robert Lucas attained his majority the Lucas family removed to Portsmouth, Scioto County, Ohio, then a part of the Northwest Territory. Before going to the Ohio frontier, however, the father freed his slaves. In 1816 Robert Lucas became a resident of Piketon, Pike County, Ohio. Here he continued to live until his removal to the Territory of Iowa in 1838. He was first married in 1810 to Elizabeth Brown, who died in 1812. In 1816 he married Friendly A. Sumner. One of his sons, Edward W. Lucas, was Lieutenant-Colonel of the Fourteenth Iowa Volunteers in the war of the Rebellion.

Robert Lucas spent the greater part of his life in the public service. In 1803 he held the office of First Lieutenant in the Ohio Militia. In 1804 he was Lieutenant in the Militia of Scioto County, Ohio. After promotion through the several subordinate ranks he was finally appointed Major-General of the Ohio Militia in 1818. He was at one time commissioned as Captain in the regular

army of the United States. And he served in the war of 1812. Subsequently he was appointed to the position of Lieutenant-Colonel and then of Colonel in the United States Army.

As to civil positions it appears that Robert Lucas was first appointed to the office of County Surveyor by the Governor of Ohio in 1803. In 1805 he was commissioned Justice of the Peace for Union Township, Scioto County, Ohio. For nineteen years years he served in the legislature of Ohio. The records show that he served as chairman in both branches of the Ohio legislature. In 1820 and again 1828 he served as presidential elector from Ohio. In 1832 he was elected Governor of Ohio. Two years later he was reelected to the same high office. In 1838 he was appointed Governor of the Territory of Iowa by President Van Buren. Finally, in 1844 he served as a member of the first Constitutional Convention of Iowa. It is worthy of mention that Robert Lucas acted as chairman of the first National Convention of the Democratic party which was held at Baltimore, Maryland. At this Convention Andrew Jackson was nominated as the Democratic candidate for the office of President of the United States.

After retiring from the office of Governor of Iowa in 1841 Robert Lucas took up his residence on a farm which he had purchased near Iowa City, Iowa. He died at Iowa City on February 7, 1853, at the age of seventy-two years.

Bibliographical Note.—*Annals of Iowa*, Vol. VIII, pp. 4–7, 44, 155, 283. *Annals of Iowa*, 3rd Series, Vol. II, pp. 221, 409, 473. *Iowa Historical Record*, Vol. VIII, pp. 276–277.

FIRST ANNUAL MESSAGE

NOVEMBER 12, 1838

From the Journal of the Council, p. 4

Gentlemen of the Council and House of Representatives, of the Legislative Assembly:

Through the intervention of Divine Providence, we have been permitted to convene at this time, for the purpose of organizing the first Legislative Assembly, under the provisions of an act of Congress, passed the 12th day of June, A. D. 1838, entitled "An act to divide the Territory of Wisconsin, and to establish the Territorial Government of Iowa."

This act must be viewed by us, as the constitutional charter of the Territory; it prescribes our powers, defines our duties, directs our actions, and points out our rights and privileges. It declares that the Legislative power shall be vested in the Governor and Legislative Assembly, and shall extend to all rightful subjects of legislation. This declaration brings within the power of the Legislature all subjects that relate to the organization of the local government of the Territory, (that does not contravene the act of Congress, or the Constitution of the United States;) all subjects that relate to the protection and preservation of the lives, liberties, property, and the reputation of the people of the Territory; the punishment of crimes, misdemeanors, and immoral practices, and such other subjects as tend to the advancement of

the public good, the general improvement of the country, and the promotion of the peace, happiness, and prosperity of the people.

This important trust has been reposed in us by our country, and we have taken the most solemn obligations faithfully and impartially to perform the same. When we consider that the eyes of the people of the United States are upon us—that they have an interest in this Territory and feel an anxious solicitude for its prosperity, (which must either be advanced or retarded by our acts,) and view the immense importance of laying a good foundation of jurisprudence, and preparing a system of laws wisely adapted to our situation and interest, and reflect that the convenience, prosperity, and happiness of the people are intimately connected with the local organization of the Territory, in all its various ramifications, we are impressed with a sense of the weight of responsibility imposed upon us, and are led to ask aid from that Providence who has hitherto sustained us; whom we view as the Governor of the Universe, the Author of all good, and the Fountain of every blessing, and sincerely implore his protecting care over us, and pray that he may inspire us, as well as all who may succeed us in authority, with wisdom to perceive, judgment to determine, and energy to execute such measures as will advance to the greatest degree of prosperity, the physical, political, intellectual, and moral condition of this pleasant land and interesting Territory.

Gentlemen, having called you together at this time for the purpose of aiding by your deliberations, in perfecting the local organization of the Government of this Territory,

it becomes my duty to present to your consideration such subjects as are deemed most essential to the accomplishment of that object, and to recommend such a course of proceedings as are deemed most advisable under existing circumstances.

The laws of Wisconsin are declared to be in force in this Territory, so far as they are not incompatible with the organic law.—But when we consider their incompatibility in many respects with that law, and the confusion into which they are thrown by being blended with the laws of Michigan, which are incompatible and conflicting in many points, we are satisfied that our Territory can derive no benefit from them, and that our most advisable course of action will be, to proceed to organize the local Government of the Territory in conformity to the organic law, and to adapt all our laws to suit the situation and interests of the Territory, without reference to the laws of either Wisconsin or Michigan.

Under this impression, I will call your attention in an especial manner to various subjects, deemed indispensable to the local organization of the Government under the organic law.

The subject of providing by law for the organization of townships, the election of township officers, and defining their powers and duties, I consider to be of the first importance and almost indispensable in the local organization of the Government. Without proper township regulations it will be extremely difficult, if not impracticable, to establish a regular school system. In most of the States where a common school system has been established by law, the trustees of townships are important agents in executing the

provisions of the laws. To them are entrusted the care and superintendence of the school lands of their respective townships, the division of townships into school districts, and various other duties relating to building school houses, the organization of school districts, and the support of schools in their respective townships.

The 12th section of the act of Congress, establishing our Territory, declares "That the citizens of Iowa shall enjoy all the rights, privileges, and immunities heretofore granted and secured to the Territory of Wisconsin and its inhabitants." This extends to us all the rights, privileges, and immunities specified in the ordinance of Congress of the 13th of July, 1787.

The third article of this ordinance declares, "That religion, morality, and *knowledge*, being necessary to good government and the happiness of mankind, *schools* and the means of education shall forever be encouraged." Congress, to carry out this declaration, have granted one section of land in each township to the inhabitants of such township for the purpose of schools therein.

There is no subject to which I wish to call your attention more emphatically, than the subject of establishing, at the commencement of our political existence, a well digested system of common schools; and as a preparatory step towards effecting that important object, as well as the consideration of numerous other advantages that must flow from the measure, I urge upon your consideration the necessity of providing by law for the organization of townships.

The seventh section of the act of Congress organizing our Territory declares, that all county officers, except judi-

cial officers, justices of the peace, sheriffs and clerks of courts, shall be elected by the people; and in the 16th section it is declared, that all justices of the peace, constables, sheriffs, and *all other executive and judicial officers* who were in office on the 3d of July last, should be authorized and required to continue to exercise and perform the duties of their respective offices as officers of the Territory of Iowa, *temporarily*, and until they or others should be duly appointed to fill their places in the Territorial government of Iowa; with a proviso, that no officer should hold or continue in office by virtue of that provision over twelve months from the said 3d day of July.

By the foregoing provision in the 7th section it will be perceived that all officers that partake of the character of county officers, except judicial officers, justices of the peace, sheriffs and clerks of courts, are to be elected by the people. The proviso in the 16th section declares, that officers shall hold their office temporarily; and after enumerating justices of the peace, constables and sheriffs, uses the general term, *all other executive and judicial officers.* From an examination of the sections above stated, it will be perceived that there are doubts as to the rights of certain officers to act under former appointments after the 3d of July. To remove these doubts and to secure the election of other officers by the people, that have heretofore been appointed by the Executive and Council, I would recommend a revision of all laws that relate to the organization of counties, and the appointment of county officers, so as to comply strictly with the organic law of Congress. I would also recommend a revision of all laws that relate

to the powers and duties of executors, administrators, and guardians, as well as the laws relating to the levying and collecting of county and Territorial taxes.

The ninth section of the organic law declares, that "the judicial power of the Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace; and that the jurisdiction of these several courts, both appellate and original, and those of the probate courts and of the justices of the peace, shall be as limited by law," with a prohibitory provision excluding from the jurisdiction of justices of the peace controversies where the title or boundary of land may be in dispute, or where the debt or sum claimed exceeds fifty dollars.

This is the most important subject that will be presented to your consideration, and will require much deliberation in arranging the different courts, and in assigning to each their appropriate powers and duties. Justices' courts are the first in order, and in them the people are more generally interested than the higher courts. Justices of the peace by virtue of their office are conservators of the peace, arbiters in matters of controversy to the amount of fifty dollars, and are the collecting officers of debts to this amount; they are the legitimate guardians of the public peace and the rights of individuals. It will therefore become an important duty (and one that will require much deliberation in its performance) to arrange the details of an act defining specifically the powers, and regulating the duties of justices of the peace and constables, in civil as well as criminal cases. The importance of this subject will demand your early attention and deliberate consideration. The duties of pro-

bate courts, though less complicated, are of great interest to the community, and will also require much care and attention in arranging the provisions of an act, prescribing the powers and defining the duties of these courts. A revision of former laws on this subject is deemed indispensable in arranging systematically the judicial organization of the Territory.

The subject of organizing the judicial courts of the Territory, prescribing their powers, defining their duties and regulating their practice, is one of the greatest magnitude. It embraces an entire system of jurisprudence, and in its various ramifications extends its influence to every department of government and class of community.

In laying the foundation of a system of jurisprudence in the Territory, would it not be advisable to unite our exertions in simplifying not only our laws, but the rules of practice and proceedings in the various courts of justice within the Territory, and to exclude therefrom as much as practicable, every thing of a fictitious or ambiguous character? In my opinion the proceedings in our courts of justice should be concise, void of technical fiction, and always directed to the merits of the cause in controversy. The establishment of such a rule of practice at the commencement of our Territorrial government, I am satisfied, would be attended with the most beneficial effects. I therefore earnestly submit these suggestions to the consideration of the Legislative Assembly.

In arranging our judicial system, it will become necessary to revise the laws regulating the duties and defining the powers of sheriffs, constables, and other ministerial officers;

also, the laws regulating judgments and executions; but in the consideration of these laws, I trust that the odious principle of imprisonment for debt, either on mesne or final process, (except in cases of evident intended fraud) will not be permitted to enter into your deliberations, and that that relic of the barbarous ages that has been permitted to remain as a blot on the laws of some of the States, will never be permitted to soil the pages of the statutes of Iowa.

I would also recommend to your consideration the propriety of adopting a general road system, defining the manner of laying out and establishing Territorial and county roads, and to provide for opening and keeping them in repair; and also, the revision of the laws regulating elections, so as to conform in all respects to the acts of Congress organizing the Territory.

The compilation of a criminal code, so as to graduate properly the various crimes and offences, and to apply suitable punishment to each, in proportion to their enormity, is a subject of deep interest to the community. It is one which of late has occupied the attention of some of the greatest statesmen and philanthropists of the age; and the general conclusion has been, that sanguinary punishments do not tend to lessen crime, and that the general policy of all criminal laws should be to prevent crimes, rather than to inflict punishment, and that all punishments should be inflicted with a view to reform, rather than exterminate the criminal. In these conclusions I heartily concur, and would wish to see confinement at hard labor, for life, substituted in all cases, in lieu of capital punishment, when suitable prisons for the purpose can be had; but in our

present situation we will necessarily be compelled to adopt more sanguinary punishments than would be advisable had we a suitable penitentiary in the Territory. But, being sensible of the deleterious effects of public executions, I would recommend to your consideration the propriety of providing by law, for executing capital punishment (should such punishment be necessary) privately, in the county prison, in the presence of the sheriff, and such other persons as the court passing sentence might direct.

In preparing a system of criminal jurisprudence, the whole catalogue of vices, from the highest crime to petty misdemeanors, pass in review, that appropriate punishment may be attached to each offense, in proportion to its injurious effects upon society; and we frequently see the most disastrous consequences proceed from practices, that in some places are considered as only fashionable vices—namely: *gambling and intemperance.*

These two vices may be considered the fountains from which almost every other crime proceeds, as the statistical reports of many of the penitentiaries conclusively show. They have produced more murders, robberies, and individual distress, than all other crimes put together: this is evident, when we consider the many thousands that annually destroy themselves, and bring their families to beggary and wretchedness, by pursuing these vices: for surely there can be no murder of a deeper moral dye than self murder; and no robbery of a more heinous character, than the robbery of our own families. Could you in your wisdom devise ways and means to check the progress of gambling and intemperance in this Territory, you will perform an act that would

immortalize your names and entitle you to the gratitude of posterity.

The recent transaction in this city, that deprived the Legislative Assembly of one of its members elect, as well as all other transactions of a similar character, should meet with the indignant frown of every friend of morality and good order in community; and the practice of wearing concealed about the person, dirks, pistols, and other deadly weapons, should not only be considered disreputable, but criminal, and punished accordingly. There certainly cannot be a justifiable excuse offered for such a practice; for in a civil community, a brave man never anticipates danger, and an honest man will always look to the laws for protection.

It has been frequently said, "that to be prepared for war, is the most effectual way to secure peace." This declaration may be emphatically applied to our present situation.

The numerous hordes of warlike Indians occupying our northern and western boundaries, and the restless disposition manifested by some of them, should admonish us to be prepared to defend the Territory against attacks from any quarter, under any circumstances and on all emergencies.

Should the Indians be disposed to hostilities, our frontier from St. Peters to Missouri, would be exposed, and from the position of the United States' troops, we need expect but little or no assistance from them; thus situated, it becomes our duty to prepare to defend ourselves against any possible attack from our Indian neighbors.

This preparation can only be effected by efficiently organizing and disciplining the Militia of the Territory. I am fully satisfied that were the Militia of the Territory properly

organized, equipped and disciplined, that we could defend ourselves against any Indian force that could be brought against us. I therefore call the attention of the Legislative Assembly in an especial manner to this subject, and request that they may pass a law giving to the Militia of the Territory a perfect organization, so as to render them a prompt and efficient defence.

In arranging the details of a Militia law, it should be explicit — 1st, in its organization; 2d, in the distribution of powers and duties to the officers and privates — 3d, the fines and penalties imposed, and the punishments to be inflicted for neglect of duty; vesting in the different grades of officers certain discretionary powers, and holding them strictly accountable for an abuse of them.

I would recommend that the Territory at first, be divided into three divisions, six brigades, and twelve regiments — and that you provide by law, for raising and organizing one company of Artillery in each division, and one company of Rangers to each regiment, to be mounted and armed with rifles, rifle pistols, and short swords. These Rangers would be most efficient against an Indian force, were they armed with Hall's carbines, a brace of rifle pistols with holsters and cartridge boxes, containing cartridges, suited to the bore of the pistols; and when dismounted to have the pistols in a belt, and a short sword. This sword to be most formidable in Indian fighting, should be a short blade about 18 inches in length, strong and double edged, to be used as occasion might require, either to cut away the brush, vines or other obstacles in pursuing the Indians into their hammocks or places of retreat, or as a weapon of defence in close combat with an enemy.

I am satisfied that troops thus organized, equipped *and disciplined, expressly for Indian fighting*, WITH STRICT DIRECTIONS NEVER TO THROW AWAY A FIRE, *nor to halt in pursuit*, first using their *rifles*, then *their pistols*, and as the last resort, their *swords*, would be more than an equal match for an equal number of the most efficient Indian warriors that ever assembled upon our frontier.

In view of our present situation I would recommend to your consideration the propriety of memorializing Congress, to provide us with three six pound brass pieces of cannon, with carriages and equipments complete, and one thousand Hall's carbines, with two thousand rifle pistols with holsters and cartridge boxes complete, and one thousand short swords, with scabbards and belts; and that government would establish a *depot* of arms and ammunition, at some suitable place within the Territory.

It becomes our duty to provide by law for dividing the Territory into three judicial districts, to assign to each judge his appropriate district, and to define the time and place of holding district courts in each of the respective counties within the Territory.

When we take into consideration the local excitements that frequently arise in neighborhoods, on the subject of division of counties, the alteration of county lines, and the location of county seats, I am satisfied that much benefit would result to the community, were the whole of the surveyed part of the Territory laid out into counties of a uniform size, and so bounded as to preclude any subsequent subdivision, or alteration of the boundaries; and the seats of justice established in each (where such seats of justice have

not already been established by law) by disinterested commissioners to be appointed for the purpose.

A general law on this subject, well arranged in its details, could not fail in a great measure, to prevent those local excitements that too frequently disturb the harmony of neighborhoods, and retard the general improvement and prosperity of the country. I therefore solicit your attention to this subject, and hope that a general law may be passed the present session in accordance with the foregoing suggestions.

It also becomes our duty to provide by law for taking the census of the Territory at certain periods, and to apportion the members of the Council and House of Representatives among the several counties and districts, in proportion to the population, as well as to fix by law, the time of the regular annual meeting of the Legislative Assembly. This subject will require your early attention.

The 13th section of the organic law or constitutional charter of the Territory, declares—"that the Legislative Assembly of the Territory shall hold its first session at such time and place in the Territory, as the Governor shall appoint and direct, and at said session, or as soon thereafter as may by them be deemed expedient, the said Governor and Legislative Assembly shall proceed to establish the seat of Government for said Territory, at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by the said Governor and Legislative Assembly."

And the sum of twenty thousand dollars is granted to be applied by the Governor and Legislative Assembly, to defray the expenses of erecting public buildings at the seat of Government.

This subject has excited to a considerable degree, conflicting interests and local feelings, in various parts of the Territory. But I can perceive no good reason for such conflicting interests. In settling this question every interest of a local or private character should be excluded from our deliberations.

It is a question purely of public concern. The United States are the proprietors *in fee* of all the land in the Territory, to which the Indian title has been extinguished. Every part of the Territory is equally susceptible of a dense population: and in granting the appropriation to be applied in erecting public buildings at the seat of Government, Congress had reason to expect the expenditure to be made at a point, that would advance to the greatest degree, both the present and future prosperity of the Territory.

I am convinced that there is no way in which we can discharge the duty imposed upon us by this section, satisfactorily to the community at large, or, to promote the general interest of the Territory so well, as to provide by law for the appointment of three disinterested men, of known integrity and weight of character, and to vest them with authority to take the subject into consideration, and to fix upon a place for the seat of Government of the Territory; and their report being returned to the Secretary of the Territory, that such report shall be considered conclusive, and the public buildings erected at the place provided for in such report.

I am clearly of the opinion that the foregoing is the only method by which the seat of Government of the Territory can be satisfactorily established. By this method, the interest of every part of the Territory will be consulted, and

strict justice administered to the whole; and with this impression, I urge it upon your consideration, and solicit a calm and impartial investigation of the same.

Gentlemen, the foregoing suggestions embrace such acts as are deemed indispensable to the organization of the Territory. There are doubtless many other subjects of a more local character, that will present themselves to your consideration.

The compilation and enactment of a complete code of laws, particularly adapted to our situation and interest, would require more time and deliberation, than is allotted to the Legislative Assembly during its session. And, indeed, experience has taught us, that it is impracticable to digest, report, and enact a complete code of laws during the session of a Legislative body.

I would therefore suggest for your consideration, as a subject of the greatest importance to the future prosperity of the Territory, the appointment of a committee not to exceed three persons, of known legal experience and weight of character, to digest and prepare a complete code of laws during the recess of the Legislature, and to report them for consideration and enactment at the ensuing session. By pursuing this method, in the course of two years we will be be released from the ambiguity of existing laws, and our system of jurisprudence will be established upon a firm foundation, peculiarly adapted to the situation, interests, habits, and wants of our citizens.

When we consider the general liberality of the present government heretofore manifested towards her minor children, we may reasonably anticipate that the same liberality

will be extended to her youngest daughter, Iowa. I therefore suggest the expediency of respectfully memorializing Congress to grant to the Territory an appropriation sufficient to erect a Penitentiary in the Territory, for the confinement of convicts that may be sentenced for a violation of the penal laws of the Territory, as well as those who may be convicted for a violation of the laws of the United States. Also, respectfully to ask an appropriation of land for literary purposes, equal to the grant made last session to the Territory of Wisconsin.

An appropriation of five thousand dollars was made by Congress to be expended, under the direction of the Governor, in the purchase of a library for the Territory. Previous to leaving Ohio, in June last, (with the assistance of several literary friends,) I made out a catalogue of such standard works as are deemed most important as the foundation of a public library, and put the catalogue into the hands of an agent in Cincinnati to make the purchase for me. Those books that could be procured in the western country, have been purchased and have been at Cincinnati for some time, waiting to be forwarded the first rise of water in the Ohio river. By advices from Cincinnati, I learn that the agent has been for some time in the eastern cities, where he will complete the purchases to the extent of the appropriation. As soon as the Ohio river is navigable, we may expect the arrival of those books that have been purchased, and the remainder of the library as soon thereafter as practicable.

When engaged in purchasing maps for the Territory in Cincinnati, in July last, Dr. O. Fairchild, of said city, presented me with a valuable set of maps, which are now in

my possession, and which I present as a present from him to the library of the Territory.

As the library is expected in a short time, I would suggest the propriety of passing a law to provide for the appointment of a librarian, to define his duties, and to regulate the library. As soon as the library arrives, a catalogue of the books shall be immediately laid before you.

On the 1st of September last, Dr. James Davis was appointed a Commissioner under the provisions of an act of Congress passed the 18th of June, 1838, entitled "An act to authorize the President of the United States to cause the southern boundary line of the Territory of Iowa to be ascertained and marked"—who proceeded soon after his appointment in conjunction with A. M. Lea, Esq., the Commissioner on the part of the United States, to the discharge of the duty assigned them, but have not yet reported their progress to this department. Should a report be received during the session of the Legislative Assembly, it shall be immediately communicated to you. The Governor of Missouri did not consider himself authorized to appoint a Commissioner under the late act of Congress until after the meeting of the Legislature of that State.

The appropriation made by Congress for the support of the government of the Territory of Iowa for the year 1838, is $24,675. This includes the salaries of the Governor, Secretary, Chief Judge, Associate Judges, District Attorney and Marshal—the pay and mileage of the Members of the Legislative Assembly of the Territory and the expenses thereof; printing the laws, taking the census, and other incidental and contingent expenses of the Assembly and Territory. (See late laws of the U. S., page 112.)

The salaries of the officers of the Territory, as fixed by law, and the contingent fund of the Governor, amount to 8,950 dollars—which leaves a balance of 15,725 dollars to defray the expenses of the Legislative Assembly—printing, stationery, fuel, house rent, and all other incidental expenses of the Territory.

In disbursing the appropriation, we should avoid parsimony in its application to defray necessary expenses; but at the same time should use *strict economy*, and be careful in our expenditures never to exceed the appropriation made by Congress.

Gentlemen of the Council, the act of Congress establishing the Territorial Government of Iowa, vests in the Executive and Council the power of appointing all judicial officers —justices of the peace, Sheriffs and Militia officers (except those of the staff) and other civil officers that are not elective by the people. The Executive is vested with the nominating and the Council with confirmative power. The power of appointing to office is one of the most delicate and responsible character; and as the concurrence of the Executive and Council are required to give validity to appointments under the Territorial authority, I deem it my duty to state to you distinctly in the commencement of our political organization the principles by which I shall be governed in nominating individuals for the various offices in the Territory.

I shall at all times pay a due respect to recommendations; but cannot conscientiously nominate to office any individual of *bad moral character*, or, that may be addicted to *intemperance* or *gambling*, if known to me. These vices are so

contaminating in their character, that all public officers in my opinion should be clear of even a suspicion of being addicted to them.

Gentlemen of the Legislative Assembly, the charter of our Territorial government declares that the Legislative power shall be vested in the Governor and Legislative Assembly. The Executive is vested with advisory and restraining powers, and the Legislative Assembly with deliberative and enacting powers. The concurrence of both the Executive and Legislative departments becomes necessary under our organization to give validity to Legislative enactments.

This being the case, I have in discharge of a conscientious duty promptly recommended to your consideration such measures as I deemed to be most expedient, and think it proper to state to you at the commencement of our Legislative proceedings, that I shall at all times take pleasure in concurring with you in acts that tend to advance the general interests of the Territory, and the prosperity of the people; —but at the same time will be compelled to withhold my assent to such acts, or proceedings, as I may conscientiously for the time being believe to be prejudicial to the public good.

That the spirit of wisdom and harmony may control all our deliberations and direct our efforts to the promotion of the general prosperity of the Territory—the establishment of good order, and the security of the peace, prosperity, and happiness of the people—is the sincere prayer of your fellow-citizen and obedient servant,

ROBERT LUCAS.

IOWA TERRITORY, BURLINGTON, NOV. 12, 1838.

SECOND ANNUAL MESSAGE

NOVEMBER 5, 1839

From the Journal of the House of Representatives, p. 9

Gentlemen of the Council and House of Representatives:

It becomes my duty, as Executive, to submit to you a statement of the affairs of the Government, and to recommend to your consideration, such measures as are deemed advisable, in perfecting the internal organization of the Territory; and such other measures as are best calculated to advance the interest, promote the prosperity, and secure the happiness of the people.

It is with the most heartfelt gratitude to ALMIGHTY GOD, whose superintending care has extended over us, and sustained us through various vicissitudes for the last year, that I am, through his *special Providence*, permitted again to address the Legislative Assembly of a Territory, that has advanced, since its organization, in improvement, population and wealth, beyond a parallel of all former history. With a genial and healthful climate—a soil unsurpassed for fertility—abounding with pure water, navigable rivers and inexhaustible mineral resources—containing a population that may safely, at this time, be estimated at upwards of fifty thousand inhabitants, and which will in all probability be doubled by the time the census of the United States is taken in eighteen hundred and forty—with this glowing prospect before us, we have great cause of gratitude to the author of

all good for the peculiar manifestation of His favor and blessings, conferred upon us as a political community, as well as a people collectively and individually.

When we consider the rapidly increasing population, and advancing prosperity of the Territory, we may, in my opinion, with propriety proceed to measures preparatory to the formation of a Constitution and State Government, and for our admission into the Union as an independent State. I know it is the opinion of some, that such measures would be premature at this time, inasmuch as our expenses are defrayed by the United States. This consideration is entitled to weight; but when we consider the imperfect organization of the Territorial Government, and the consequent embarrassment in the administration of its internal affairs—and by referring to past history, compare the condition of the inhabitants of Ohio, Indiana, Illinois and Michigan, while under a Territorial Government, to their subsequent prosperity after their admission into the Union as independent States, the preponderance is much in favor of a State Government—for the prosperity and improvement within each of the aforesaid States languished while Territories, but advanced with rapid strides from the moment of their several admissions into the Union as independent States. With these facts before us, I would earnestly recommend to the Legislative Assembly the early passage of a memorial to Congress, respectfully asking of that body the passage of an Act, at their ensuing session, granting to the inhabitants of Iowa Territory, the right to form a Constitution and State Government, and to provide for their admission into the Union upon an equal footing with the original States.

In recommending this subject to the consideration of the Legislative Assembly, I respectfully suggest the following as the most natural and suitable boundaries for our State, to wit: beginning in the middle of the main channel of the Mississippi river at a point east of the middle of the main channel of the Des Moines river where it empties into the Mississippi river; thence up the Mississippi river, following the middle of the main channel of the same to the mouth of the St. Peters river; thence up the St. Peters river following the middle of the main channel of the same to the mouth of Blue Earth river; thence up the Blue Earth river, following the middle of the main channel of the same to the most westerly source of said river; thence on a direct line to the source of Cactus river, an east branch of Calumet or Sioux river; thence down said river, following the middle of the main channel thereof to the middle of the main channel of the Missouri river; thence down the Missouri river following the middle of the main channel thereof to a point west of the line that may be established by Congress under the act approved June 18th, 1838, entitled, "An Act to authorize the President of the United States to cause the southern boundary line of the Territory of Iowa to be ascertained and marked;" thence east with said line to the middle of the main channel in the Des Moines river; thence downward along the middle of the main channel of the Des Moines river to the place of beginning.

The foregoing, appears by a reference to the geographical position of the country to be the most natural boundaries for our state. It embraces the head-waters of all our principal rivers, extends from the Mississippi river to the

Missouri river, and will leave the northern portion of the Territory as now bounded in a suitable situation for the future formation of two additional states, each extending from the Mississippi to the Missouri river.

I would also recommend the passage of a law to provide for the calling a convention to form a state constitution, so soon as Congress may grant by law the privilege to do so.

Congress, at their last session, made two important amendments to the organic law of the Territory, both of which were approved the 3d of March, 1839. The first, entitled "An Act to alter and amend the organic law of the Territories of Wisconsin and Iowa," declares, "that every bill which shall have passed the Council and House of Representatives of the Territories of Iowa and Wisconsin, shall, before it becomes a law, be presented to the Governor of the Territory, if he approves of it, he shall sign it, but if not, he shall return it with his objections to the House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it; if after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases, the votes of both Houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within three days (Sunday excepted) after it shall have been presented to him, the same shall become a law in like

manner as if he had signed it, unless the Assembly by adjournment prevent its return, in which case it shall not be a law."

The foregoing is a salutary amendment to the original organic law, and is truly gratifying to the executive. It defines the powers and duties of the executive, when those duties stand connected with the Legislative Assembly, relieves him from much legislative responsibility, and places it where all legislative responsibility should ever rest, with the immediate representatives of the people. In the original law all the responsibility was thrown upon the executive. No law could take effect without his approval, and there was no provision made for a reconsideration by the Legislative Assembly when the executive differed with them in opinion. This amendment will doubtless tend to harmonize the proceedings between the Legislative Assembly and the Executive, and lead to a more convenient despatch of business.

The second is "An act entitled an act to authorize the election or appointment of certain officers in the Territory of Iowa, and for other purposes." This act prescribes "that the legislative assembly of the Territory of Iowa shall be, and are hereby authorized, to provide by law for the election of Sheriffs, Judges of Probate, Justices of the Peace, and County Surveyors within said Territory, in such way or manner, and at such times and places as to them may seem proper; and after a law shall have been passed by the Legislative Assembly for that purpose, all elections or appointments of the above named officers, thereafter to be had or made, shall be in pursuance of such law."

The foregoing section vests in the Legislative Assembly, the right to provide by law for the election of the aforesaid officers. This, no doubt, will be a pleasant duty to perform, as it is in strict accordance with the spirit of our institutions. Our government is a government of public sentiment, and I have ever been of the opinion, that the only safe depository of power is with the people. They are the only legitimate sovereigns of the land, and with them should be vested the power of electing all public functionaries from the highest to the lowest degrees. This has ever been my sentiment, and I take pleasure in urging upon the consideration of the legislative assembly, on the present occasion, the passage of a law to provide for the election, by the people, not only the officers above mentioned, but all others within the Territory that are not expressly prohibited by the organic law.

I will again call your attention to the importance of providing by law for the organization of townships. Such an organization was doubtless contemplated by Congress, when they declared in the organic law, that all township officers should be elected by the people. The organization of townships are so intimately connected with every well regulated system of common schools, as well as that of public roads, that neither system can be conveniently carried out in detail, without such organization. Further, it has been proven by experience, that the ordinary local business of the country can be done with much more convenience and less expense to the people, where the township system has been adopted, than in communities where it has been dispensed with. I, therefore, earnestly press upon your consideration, the im-

portance of passing a law the present session, to provide for the civil organization of townships, and that provision be made for the election by the people, of a competent number of Justices of the Peace, in such organized townships, as well as other township officers.

The subject of a well digested system of common schools, is one of as great importance as can possibly be pressed upon legislative consideration. The act passed at the last session, is too limited in its provisions to serve as a foundation for a well regulated system. I would therefore, recommend its revision, and call your attention to the school law of the State of Michigan, as worthy of your attention, and from which much useful information may be obtained.

The resolution of the last session of the Legislative Assembly on the subject of printing the laws and journals, approved November 27, 1838, reads as follows, to-wit:

"*Resolved*, That Messrs Clarke & M'Kenny, publishers of the Territorial Gazette, in this city, be employed to publish the Journal of the proceedings of the House of Representatives, in pamphlet form, and that they be paid the same prices as are paid to the printers of Congress for such work; and that Russell and Reeves of Dubuque, be employed to print the laws passed at the present session on the same terms, and that said Russell and Reeves, be required to enter into bonds, with good and sufficient security, to the Secretary of the Territory, in the sum of five thousand dollars, to have the same ready for delivery on the first day of May, A. D. 1839."

The act regulating the publication of the Laws and Journals of the Legislative Assembly of the Territory of Iowa,

approved January 21, 1839, (see page 321,) points out the manner in which the laws shall be printed, bound and distributed.

The 4th section declares, that "It shall be the duty of the Secretary of the Territory to superintend the printing, in such manner as he may conceive most conducive to the public good, the Acts and Joint Resolutions of the Legislative Assembly, and to correct the same by the enrolled bills in his office; and when the printing of the same shall be finished, to certify the fact, of his having compared and found the same correct, which certificate shall be signed and dated by the Secretary, and annexed in print to the volumes of the Acts and Joint Resolutions as aforesaid."

The 10th section of said act declares, that "the Secretary of the Territory be and he is hereby required to furnish the public printer with a copy of all the acts of Congress now in force relative to the naturalization of aliens, as soon as practicable, and that it shall be the duty of the printer aforesaid, to publish the same, as an appendix with the statutes of a public nature, of the present Legislative Assembly."

The manner in which the obligation in the aforesaid resolution has been fulfilled, and the duty specified in the Act relative to publishing the Laws, has been performed, will be manifested by a reference to the time the laws were ready for delivery, and by an examination into the correctness and contents of the volume published. The obligation in the resolution required the laws to be ready for delivery on the first day of May last. They have just been received at this city, within a few days of six months after the time

specified in the obligation. On examining the printed volume, delivered to me by the Secretary of the Territory, I find it contains his official certificate, dated the 23d of July, A. D. 1839, (nearly three months after the time the laws should have been ready for delivery) certifying that he had compared the pages with the "engrossed bills" deposited in his office, and that they contained true and correct copies. (The Secretary, I suppose meant the enrolled bills, as no "engrossed bills" are ever filed in the Secretary's office as laws.) In this certificate the Secretary has been in error in one particular at least; for, in the first section of the act providing for and regulating general elections, in the Territory, I discover a very important interpolation in the printed copy, that changes materially the meaning of the law. The original enrolled bill signed by the presiding officers of both branches of the Legislative Assembly, approved by the Executive, and deposited in the Secretary's office, in the clause relating to the election of Delegate to Congress, reads as follows: "An election for Delegate to Congress, for members of the council, and county recorder, shall take place on the first Monday in August next—and forty, and on the same day in every second year thereafter." The printed copy is made to read "An election for Delegate to Congress, for members to the council, and county Recorder, shall take place on the first Monday of August, *Eighteen hundred* and forty, and on the same day in every second year thereafter." Thus we find the word "*next*" where it occurs after the word "*August*" in the original enrolled bill omitted, and the words "*Eighteen hundred*" that are not in the original roll

interpolated in the printed copy. I have also examined the appendix with care, and find under the head *Naturalization of aliens*, an act of Congress entitled "an Act to amend an Act concerning Naturalization," approved 24th May, 1828, printed which is the only act on this subject that I could find in the volume. The acts of the Legislative Assembly require the publication, in an appendix to the laws of the Territory, all acts of Congress now in force, relative to the naturalization of aliens, which would have included a general law on that subject, approved 14th April, 1802, an additional act approved 26th of March 1804, an act regulating seamen, &c. approved 3d of March 1813, an act supplementary to acts heretofore passed, &c. approved July 30th 1813, an act relative to evidence in case of naturalization, approved May 29th, 1824, all of which acts are in force and should have preceded the act published in the appendix.

I have considered it my duty to call the attention of the Legislative Assembly to the foregoing facts. The immense injury that has been sustained by the people of the Territory for want of the laws at the proper time, must present itself forcibly upon the consideration of their Representatives, and calls loudly for Legislative interference, to secure a prompt publication of the laws in future. I would therefore suggest to the consideration of the Legislative Assembly, the propriety of creating, by law, the office of Public Printer, and to define his duties, and fix his compensation by law —holding him responsible, under heavy penalties, to have all public printing done promptly at the time provided by law.

The appropriation made by Congress for the purchase of

a Territorial Library has been expended, and the books received. The Legislative Assembly having failed, at the last session, to pass a law to regulate the Library, the Executive procured a room, had it fitted up as a library room, with cases for the books, in which they are now placed, and under the care of Charles Weston, Esq. who was, on the 18th of October last, appointed Librarian pro tem. This course was thought advisable by the Executive, so that the members of the Legislative Assembly might have the benefit of the Library at the commencement of the session. There being no provision made by law for paying the rent of the library room, and other incidental expenses connected therewith, Mr. John S. David, the proprietor of the building, agreed to fit up the room, and wait the pleasure of the Legislature to make him such an allowance as they might deem reasonable.

I would respectfully recommend to the Legislative Assembly the early passage of a law to regulate the Territorial Library—to provide for the appointment of Librarian—fix his compensation, define his duties, and provide for the payment of other necessary expenses of the Library. I think it also would be of great importance to provide for a gradual increase of the Library, by a small annual appropriation, to be expended by the Librarian in subscription to important periodical works, and the purchase of such other books as might be deemed most useful to the Territory, and diffuse the greatest degree of useful knowledge among the people. A catalogue of the books and maps in the library will be submitted to the consideration of the Legislative Assembly by the Librarian as soon as it can be conveniently made out.

The directors appointed under the provisions of the act, "to provide for the erection of a Penitentiary, and establish and regulate prison discipline for the same," organized their board, and reported to me, on the 29th of April last, that they had procured a site for the Penitentiary in accordance with the provisions of said act, and desired that I would make a requisition on the Treasury of the United States for the sum appropriated by Congress for the erection of public buildings in the Territory of Iowa, in their act of the 7th of July, 1838.

In compliance with the request of the directors, I transmitted to the Secretary of the Treasury of the United States, on the same day, a copy of the act of the Legislative Assembly, and called his attention particularly to the 5th section, which required the Governor to draw the appropriation, and pay it over to the Superintendent of the Penitentiary. I also in my letter, called the attention of the Secretary of the Treasury to the appropriation made in the organic law for erecting public buildings at the seat of government, and explained to him the reason why the two appropriations would be drawn for under different legislative acts; and in conclusion, requested him to give me the views of the Department on the subject. On the 20th of May, the Secretary of the Treasury acknowledged the receipt of my letter of the 29th of April, and its enclosures. He referred me, in reply, to an act of Congress, approved 31st of January, 1828, and informed me that the money could not be advanced, except as the service was performed, and articles delivered, unless the President was applied to, and reasons stated, which satisfies him to advance as much as would be

wanted for the next thirty or sixty days. A copy of this letter was furnished to the directors of the Penitentiary, and also to the commissioners appointed to superintend the public buildings at the seat of Government. On the 9th of September, the Superintendent presented a bill of the work done at the Penitentiary amounting to $2,077.00; also an estimate for the funds wanting for the ensuing sixty days, amounting to $3,800.00, with a certificate of approval, endorsed by the directors. These estimates, together with a petition directed to the president of the United States by the directors, was transmitted by me to the Secretary of the Treasury of the United States, on the 14th of September last, requesting him to transmit to Amos Ladd, the Superintendent, a check either on the Receiver of Public Moneys at this place, or the State Bank of Missouri, for the sum of $5,877.00—the amount required by the directors. The check, I understand, has been received recently by Mr. Ladd, on the Bank of Missouri. Subsequent to forwarding the aforesaid estimates and requisition, I received a letter from the Secretary of the Treasury of the United States, dated the 9th of September, 1839, in which he informs me that since the receipt of my communication of the 29th of April last, on the subject of the appropriation to defray the expenses of erecting public buildings in the Territory of Iowa, the Comptroller had reported, in answer to a call from the Department, in a similar case, that the appropriation must be considered as a grant, and an account can be stated in favor of the Treasurer of the Territory, as my assignee for such parts of the whole as I may require; and that on receiving from me a requisition in his favor, stating

the amount that may be required to meet the liabilities of the Territory on account of the erection of public buildings, within thirty days subsequent to the date of my requisition, it would be referred to the accounting officer for settlement in conformity with the Comptroller's decision, and so hereafter when further sums may be needed.

I have submitted the subject in detail, and request that you would give it your serious attention, and that provisions may be made by law to authorise the Treasurer of the Territory to receive from the Treasurer of the United States, and to pay over all moneys appropriated by Congress for the erection of public buildings in the Territory, in accordance with the views of the Comptroller of the Treasury of the United States.

While on this subject, I will call the attention of the Legislative Assembly, in an explicit manner, to the importance of providing, by law, for the transmission to the penitentiary, of all prisoners that may be sentenced to imprisonment within any part of the territory, for a violation of our criminal laws. It would be attended with but little expense to prepare a temporary prison to secure the convicts at night; and by surrounding the works with pickets, with the attention of a few guards they might be kept safely at work through the day, and shut up in the prison at night. Thus they might be made to erect a prison for themselves, and relieve the Territory from considerable expense.

By the 4th section of the act supplementary to an act to locate the seat of government of the Territory of Iowa, and for other purposes, approved 21st of January, 1839, it was

made the duty of the Governor to apply to Congress, for a donation of, or a pre-emption to, four sections of land, on which to locate the seat of Government of the Territory of Iowa. In discharge of this duty, the Governor did, on the 24th of January, within four days after the passage of the bill, transmit a memorial to the Senate and House of Representatives of the United States of America in Congress assembled, together with a copy of the original and supplementary acts to locate the seat of Government of the Territory of Iowa. The memorial first asked Congress permission to locate the seat of Government of the Territory upon the land of the United States, in the county of Johnson, and within the late purchase made by the United States from the Sac and Fox Indians. Second—that they would grant unto the Territory a donation of four sections of land upon which to locate the said seat of Government, or if they should not deem it expedient to grant the land as a donation, that they would secure to the Territory a pre-emption right to four sections of land at the place that might be selected for the seat of Government, and that a title to the same might be perfected on payment being made, in such manner as Congress might deem expedient. A copy of the memorial and acts of the Legislature, was transmitted to the President of the Senate, and Speaker of the House of Representatives in Congress, together with a request that they might be laid before their respective Houses. We see, by the journal of Congress, that the memorial was received and referred to the respective committees on public lands, but no further action was had on them prior to the adjournment of Congress. We see

among the acts of the last session of Congress, an act entitled "An act making a donation of land to the Territory of Iowa for the purpose of erecting public buildings thereon," approved 3d March 1839, in the followings words: "That there be and hereby is appropriated and granted to the Territory of Iowa, one entire section of land, of any of the surveyed public lands in said Territory, for the purpose of erecting thereon, the public buildings for the use of the Executive and Legislative departments of the government of the said Territory: *Provided*, That the said section of land shall be selected under the authority of the Territorial Legislature, the seat of Government located thereon, and notice of said selection officially returned to the Register of the Land Office in the district in which the land is situated, within one year from the passing of this act: *And provided further*, That nothing herein contained shall authorise the selection of the sixteenth section in any township reserved for the use of schools, nor of any lot reserved for public purposes; and that in the selection to be made as aforesaid, no pre-existing improvement or right of pre-emption recognized by law, shall be prejudiced thereby.

"Sec. 2. *And be it further enacted*, That if, at the time of the selection of the section of land to be made as aforesaid, the contiguous sections thereto have not been made subject to public sale, or being so subject have not been sold, at public sale or private entry, then each and every section contiguous to said selected section and not so sold, shall be thereafter reserved and withheld from sale in any manner, until the further order of Congress thereon.. But nothing herein expressed shall be construed to restrain the

said Territory of Iowa, after appropriating a sufficient quantity of land within said selected section for the site and accommodation of the said public buildings, from selling and disposing of the residue of said section in lots or otherwise for the use of said Territory, in the erection and completion of said building."

The act of Congress comes in direct conflict with the acts of the Legislative Assembly, and the memorial presented to Congress by their order. It confines the selection to surveyed public lands, when there were at the time of its passage but two townships of surveyed public land, within the county of Johnson—one lying between the line of Washington and Muscatine counties, and the other north of the same in the southeast corner of the county, being entirely in the prairie and had been offered for sale in the Dubuque land district, at the public land sales in November, 1838. The restrictions under which the selection is to be made, and the conditions connected with the grant are such as never can be acceded to without an entire disregard to the interests and prosperity of the Territory. First, the selection is confined to surveyed townships, when the memorial presented to Congress prayed for the grant to be within the late purchase of the Sac and Fox Indians.—Second—the section of land must be selected under the authority of the Territorial Legislature, the seat of government located thereon and notice of said selection officially returned to the Register of the Land Office. Third—that when the official return is made to the Land Office, every contiguous section to the section selected as the seat of government becomes Congressional reservations, and ever thereafter is reserved

from sale in any manner until the sale shall be ordered by a special act of Congress.

What would be the effect of the last condition? It would inevitably tend to check the improvement of the city and retard the prosperity of the inhabitants. The city would be surrounded on every side by Congressional reservations of a contiguous section, and must ever remain so, until a special act of Congress should provide for the disposal of these contiguous sections, which would probably not be for many years, and then upon terms that would check the improvement of the city. I am clearly of the opinion that the grant proposed under the aforesaid act of Congress ought not to be accepted by the Territory and that it would be better for the Territory to pay the government price for ten sections of land than to accept the donation of one section under such embarrassing conditions. I therefore recommend to the Legislative Assembly the passage of a memorial to Congress, calling their attention to the memorial that was forwarded by their direction to the late Congress, and requesting that a grant or pre-emption right may be secured to the Territory, for the land on which the seat of government is located, without any restrictive conditions, or Congressional reservation in the vicinity thereof.

The Commissioners appointed by the late Legislative Assembly, proceeded to locate the seat of government in the county of Johnson, (and I think very properly too) without regard to the act of Congress of the 3d of March last, and have made report of the proceedings to the Executive, in accordance with the provisions of the legislative acts of the Territory. The section selected by them has been

laid out into city lots, and on application of the acting commissioner, public sale of lots were by proclamation of the Executive ordered to be held on the 3d Monday of August, and on the first Monday in October last at which sale there were 203 in lots and 3 out lots sold for the aggregate sum of $28,854.75. The lots sold cannot be estimated at more than one fourth in value of the whole city plat. A special report, it is expected, will be submitted to the Legislative Assembly by the commissioners.

I would suggest to the Legislative Assembly, the revision of the act establishing the seat of government, so as to define the manner of disbursing the funds appropriated by Congress in accordance with the views of the Secretary of the Treasury, as expressed in his letter to me of the 9th of September, heretofore referred to. Also to point out the mode of making deeds of conveyance to the purchasers of lots in Iowa City; Also to define more definitely the plan for the public buildings, and the manner of superintending their construction by an experienced architect.

The 10th section of the militia law states, that in order to secure uniformity in the organization, discipline and government of the militia of this Territory, it shall be the duty of the commander-in-chief, from time to time, to provide at the expense of the Territory, such books of instruction as are or may be, prescribed for the use of the army or militia of the United States, and to furnish each commissioned officer with a copy. This duty would have been performed with pleasure by the Commander-in-chief, had funds been placed under his control for the purchase of such books: but there being neither funds in the Territorial Treasury, nor any law

by which they could be drawn therefrom, for the purpose aforesaid, I addressed a letter on the 9th of July last, to the Secretary of War, making inquiry whether such books could be furnished by the War Department. I also made inquiry respecting a supply of arms to the militia of the Territory, and the establishment of a depository of arms and munitions of war at some central point on the Mississippi river, within this Territory, for the use of the militia in case of need. To which letter I received a reply from the acting secretary of War, dated the 7th of August last, in substance as follows:

The acting Secretary of War, (S. Cooper) acknowledged the receipt of my letter of the 9th of July, enquiring whether there could be furnished by that department a number of Cooper's books of tactics and regulations sufficient for the instruction of the officers of the militia of Iowa, and on the subject of supplying arms, &c., to enable the citizens of the Territory to defend themselves against Indian depredations; and stated that the department at that time had no means at its disposal, that would enable it to furnish the work referred to; but that the matter would be submitted to the Secretary of War on his return to the seat of Government for his consideration. In respect to the arms, &c., the acting Secretary of War enclosed me a report from the officer in charge of the ordnance department, to whom was referred my letter of the 9th of July. This report states that "the communication of the Executive of the Territory of Iowa shows that arms and equipments may be required for the defense of the inhabitants against Indian hostilities at some future day. That the organization of the militia is not yet

completed, and consequently no return of the militia can have been made to the adjutant general of the army.

"Issues of arms to the States and Territories, under the law of 1808, can be made only on the militia returns, which is indispensable in distributing the number due. In the absence of such returns, and that the Territory may have a resource in case of need, I would respectfully suggest that a suitable place be selected and a deposition of arms, accoutrements and ammunition be made, the whole to remain in the custody of the United States subject to the order of the Governor of the Territory, in certain contingencies to be specified. It appears to me, that any other disposition of public arms would lead to disappointment in case they were relied upon for our future service. Some central point on the Mississippi is named as a proper location for the depository of arms. Fort Armstrong and Prairie du Chien, would both be safe places, and are under the control of the government. My limited knowledge of that part of the country forbids the attempt to name at once a more suitable place."

The foregoing report was addressed to the Secretary of War, and dated 3d of August, 1839. It contains the views of the ordnance department on the subject of public arms: but I have received no further communications from the Secretary of War on the subject of the enquiries made of the department, in my letter of the 9th of August last.

The foregoing statements and correspondence is respectfully submitted for the information and consideration of the Legislative Assembly. It must convince them of the necessity of perfecting the organization of the militia of the Territory as speedily as practicable.

In pursuance of the militia law, the Territory has been divided into three divisions, six brigades and twelve regiments. The general and field officers have been appointed, and in all the regiments (except the regiment composed of the counties of Henry and Jefferson, from which no company officers have been reported,) company officers have been recommended and commissioned. Some of the regiments are organized entire, and others partially so; but no return of the numerical strength of the militia of any of the regiments have yet been received by the adjutant general. By reference to the report of the ordnance department, it will be seen that no arms can be drawn from the United States until our militia organization is completed, and the numerical strength reported to the adjutant general of the army of the United States. The tardiness in completing the organization of the militia may in a great measure be attributed to a want of a correct knowledge of the militia laws of the Territory. I therefore suggest the propriety of causing the militia laws of the last session of the Legislative Assembly, together with such parts of the Wisconsin laws as are still in force, to be printed in pamphlet form, and distributed among the militia officers of the Territory; and that additional provisions be made to cause prompt and full returns of the numerical strength of each regiment, to be transmitted to the adjutant general of the Territory, to be by him transmitted to the adjutant general of the United States, so that in apportioning the public arms under the act of 1808, the Territory of Iowa will receive her full portion of the same.

The attention of the Legislative Assembly is solicited to

the subject of adopting a regular system of finance for the Territory. To effect this, it will become necessary to create the office of Auditor of Public Accounts, whose duty it shall be to audit all claims against the Territory, and on whose warrant all moneys appropriated by law shall be drawn from the treasury of the Territory. By our present laws, the office of Territorial treasurer is created, but there is no law in force to define his duties, or to point out the manner in which public moneys are to be paid into the Territorial Treasury; or where money may be in the treasury how it may be drawn out of it.

The first section of the supplementary act to locate the seat of government declares that a sale of lots in the town at the seat of government, shall be held under the direction of the commissioners, the proceeds of which shall go into the Territorial treasury to be expended as may be hereafter directed by law.

I respectfully recommend the passage of a law regulating a system of finance within the Territory, in which the powers and duties of the treasurer may be defined. In which he would be required to receive and disburse all public funds belonging to the Territory, as well those appropriated by Congress for erecting public buildings, as the funds that may be collected under the Territorial laws. A well regulated system of finance would relieve the Territory from embarrassment in its fiscal operations, and would lead to economy in public disbursements, which is an object that should never be lost sight of, by all public functionaries.

The act of the last session, to prevent gambling, ap-

proved 25th of December, 1838, contains efficient provisions, and if faithfully executed must ultimately tend to check those pernicious practices within the Territory. But the demon of intemperance, appears to stalk through our land unmolested, and indeed fortified in many respects behind the license law of the country. The principle of raising a revenue from license to vend or retail intoxicating drinks, appears to me to partake much of the character of legalizing indulgences to commit crime. The vender of ardent or other intoxicating drinks, though it may be legalized by license, is, in my opinion, morally accountable for all the crimes and wretchedness produced by the use of such ardent spirits, or other intoxicating drinks vended by them, whether wholesale or retail. The philanthropist and statesman have of late years considered intemperance one of the greatest evils that pervade our land. It is considered the cause of more wretchedness, crime and death, than any other cause whatsoever, and many of the states have interposed the strong arm of the law to check its progress. But when we consider that our government and laws are under the control of public opinion, I have, after much reflection, been led to the conclusion that the most effectual mode to suppress this greatest of all evils (intemperance) would be to submit it entirely to the control of public opinion. I therefore seriously solicit the attention of the Legislative Assembly to the subject and recommend to their consideration the passage of a law repealing all laws now in force in the Territory, that authorize granting license to vend or retail ardent spirits, and to leave the subject entirely under the control of public opinion, holding the keepers of public

houses and groceries accountable under heavy penalties for permitting drunkenness or disorder about their respective houses. This, in my opinion, would give a fatal check to the practice. The whole moral influence of the community would in a short time be brought to bear upon it, and being without the support of legal license, would ultimately sink under the weight of public opinion. But should the foregoing recommendation be deemed inexpedient, I would suggest an alteration in the laws, so that no license to retail ardent spirits or other intoxicating drinks, should be granted by any authority in any county within the Territory of Iowa, unless a majority of the legal voters in such county, should vote in favor of granting such license at their respective annual elections. This principle has been adopted by some of the states, and has been spoken of as highly beneficial in its effects. It is in strict accordance with the spirit of our institutions, that a majority of the qualified voters in the respective counties should determine on questions of policy that are so intimately connected with their interests and future prosperity.

The foregoing suggestions are most respectfully submitted to your consideration, under a confident belief that you will give them the consideration that is due to the importance of the subject.

By the provision of the act of Congress, approved June 18, 1838, entitled "An act to authorise the President of the United States to cause the southern boundary line of the Territory of Iowa, to be ascertained and marked," the President of the United States, was authorised to cause to be surveyed, ascertained and distinctly marked, the southern

boundary of the Territory of Iowa west of the Mississippi river, which divides it from the State of Missouri; and that for that purpose he was authorised to appoint a Commissioner on the part of the United States, who should unite or act in conjunction with a Commissioner to be appointed by the Governor of Missouri, and a Commissioner to be appointed by the Governor of the Territory of Iowa, in running, marking and ascertaining said boundary line; and it was made the duty of the Commissioner to be appointed by the President to make a full report of his proceedings in the premises to the Secretary of State of the United States. Under the provisions of said act, Albert M. Lea, Esq., was appointed a Commissioner on the part of the United States and Dr. James Davis was appointed a Commissioner on the part of the Territory of Iowa. The Governor of the State of Missouri declined to appoint a Commissioner on the part of that state. The law declares that if the State of Missouri and Territory of Iowa should fail to appoint Commissioners, or if the Commissioner appointed by either or both should fail to attend to the duty after reasonable notice, that the Commissioner on the part of the United States should proceed to execute the duties enjoined with either of said Commissioners, who might attend, or without the attendance of either or both of said Commissioners. The law further declares, that the line so run, ascertained and marked, should not be deemed to be finally established and ratified by the United States until the map or plat and descriptions aforesaid, and also, the said report of the Commissioners, should be submitted to, and the boundary as thus ascertained and marked ap-

proved of and ratified by the Congress of the United States.

The Commissioner appointed on the part of the United States, in conjunction with the Commissioner on the part of the Territory of Iowa, proceeded to the discharge of their duties, and submitted their reports in accordance with the requisition of the law, and in obedience to a resolution of the House of Representatives, on the 30th day of January last. The report of the Commissioner on the part of the United States, was submitted to Congress by the Secretary of State, but not being finally acted upon before the adjournment of Congress, it now awaits the final action of Congress thereon at the ensuing session. After this report was submitted to Congress, the Legislature of the State of Missouri passed an act declaring the line run by their own Commissioners in 1837, to be the northern boundary of that State. This act was dated, according to the Proclamation of the Governor of Missouri, the 16th of July, 1839. This Missouri act appears to have been passed in defiance of the proceedings of Congress, and in direct contravention of their acts, and under the provisions of which the authorities of that State have attempted to obtain a tortuous jurisdiction over a portion of this Territory within the county of Van Buren, and on which the Territory of Iowa has since its organization exercised an unmolested jurisdiction.

The unwarrantable and unjustifiable proceedings of the authorities of Missouri, and their attempt to levy and collect taxes from the citizens of the United States, residing within the organized boundaries of this Territory, has

caused an excitement of feeling that may ultimately lead to the effusion of blood.

It becomes our duty to maintain the jurisdiction of the United States over all the Territory embraced within the boundaries of the Territory of Iowa at the time of its organization, until Congress establish the line. This duty cannot be dispensed with by the authorities of this Territory, acting as they do under the laws of the United States. They are bound to maintain the supremacy, and cannot compromise or yield the jurisdiction of the United States in any way or manner whatever.

In order that the Legislative Assembly may have a full view of this exciting subject, I transmit, with this message, to the House of Representatives, all documents in possession of the Executive, that can cast light on the subject, with a request that they may be communicated to the Council, and receive the prompt attention of the Legislative Assembly, more especially the report of the Adjutant General, contained in No. 16. (Having no copies, I send the original, and request that they may be preserved by the Legislative Assembly, to wit: Documents No. 1 to No. 18, inclusive.)

In concluding this communication, I will suggest to the Legislative Assembly the propriety of again memorializing Congress to grant to this Territory for literary purposes a quantity of land equal to the grant made to Wisconsin. It seems to me that Congress will not withhold from Iowa, the same liberality that has been bestowed upon the other territories, if properly pressed upon their consideration.

That your deliberations on all subjects touching the general interests of our country, and the prosperity and happiness of our constituents, may be crowned with success, is the ardent wish of

Your Obedient Servant,

ROBERT LUCAS.

ACCOMPANYING DOCUMENTS

From Original Copies in the Office of the Secretary of State, Des Moines

An Act explanatory of an act to organize Clark County

Whereas doubts are entertained whether or not the boundry of Clark County extends north of the old Indian boundry, which has been by some erroneously considered the northern boundary of the State of Missouri: and whereas it is desirable to render the extent and limits of that County certain therefore—

Be it enacted by the General Assembly of the State of Missouri as follows:

All that portion of Territory bounded on the west by the range between ranges nine and Ten, west: on the south by the old Indian boundry line which passes through Township sixty seven, on the north East by the Des Moines river and on the north by the true boundry of the State of Missouri, is hereby declared to be a part of Clark County in this State—

This act shall be in force from and after its passage

Approved December 15, 1838—

An Act defining the Northern Boundary line of the State

Be it enacted by the General Assembly of the State of Missouri as follows—

Sec 1 The line as run and marked out by the Commissioners appointed by this State, from the rapids of the river Des Moines to the Missouri river in the year 1837, be, and the same is hereby declared the Northern line of this State—

Sec 2 This Act to take effect, and be in force from and after its passage

Apprd 16th Febury, 1839.

Lafayette Ia Jan 10th 1839

His Excellency Robert Lucas, Governor of Tr. Iowa.

Sir: I this day forward to you my report on the subject of the southern boundary line of the Territory of Iowa.

I should have transmitted it to your Excellency before this time, but was desirous to see Lt. Lea's report before I finished my own, but find it will not do to wait any longer.

I presume the subject will not come up in Congress untill the latter part of the session, and hope the report will reach Washington in time

I have not yet received the first line from Mr. Lea since I left him. He promised to write me from St Louis, and Baltimore, and inform me what his report would be, but has failed to comply with his plege or the mail has miscarried—

I shall remain here untill I know what Congress has done with the boundary subject. I can get communications from Washington to this place in 9 days

Very respectfully, Your obt servt

James Davis.

Keosauqua 8th. July 1839—

Esteemed Sir; The unwarrantable conduct of Missouri toward the southern portion of Iowa, calls loudly for the interposition of, your Excellency, The Authorities have against the will and wishes of the *people*, assessed their property and endeavored to ascertain

their views in relation to Slavery, and further ordered that they should not pay the Collector of this County whose duty requires that it should soon be accomplished—— The firmness of purpose which your *Excellency* evinced on a similar occasion in the disputed boundry of *Ohio*, gives us reason to expect your earnest attention on this unfortunate occurrence,

With the fullest assurance that your superior Judgment and advice will sugest the course we should pursue, which we will anxiously await

Respectfully Yours

Commissioners of Van Buren Co. Iowa Territory.

Jno. Carnes
Chs Davis
John Taylor

PROCLAMATION

By the Governor of Iowa Territory

See below for this Proclamation as issued by Robert Lucas

A PROCLAMATION

By the Governor of the State of Missouri

Whereas, a publication has appeared in the public prints of this State, purporting to be a proclamation issued by the authority, and bearing the name of the Governor of the Territory of Iowa, declaring that a certain organic law of said Territory, entitled "an act to prevent the exercise of a foreign jurisdiction within the limits of the territory" shall extend to and be in force within a certain district of land lying within the boundaries, and subject to the jurisdiction of the State of Missouri,—and authorising the arrest and trial, before the judicial tribunals of Iowa, of all persons, residing within the limits of the said Territory, as the same have been declared, and are now illegally claimed by the said Territory of Iowa—who shall accept of any office of trust, from any State, or shall exercise or

attempt to exercise any official functions, or who shall officiate in any office or situation within any part of the jurisdiction of said Territory, as at present declared—or within the limits of any of the counties therein, as at this time organized, by virtue of any commission or authority not derived from the Government of the United States or said Territory—admonishing all persons residing within the limits of the said Territory, as the same have illegally extended, from the acceptance of any such office or trust—calling upon the several officers of the territorial counties bordering upon this State to be careful that the laws of the United States, and of said Territory be respected, enforced and faithfully executed within the boundaries of Iowa, as they are at present organised, and exhorting all such officers to promptitude and vigilance in the discharge of their respected duties, and to be vigilant in protecting the inhabitants who it is pretended reside within the limits of the said Territory of Iowa, and moreover to exercise the power of arrest within a district of country, which, since, and by the terms of admission of the State of Missouri into the confederacy of the United States, has been and still is subject to the authority of this State, and over which the Territory of Iowa is now seeking to extend an unwarranted and unauthorised jurisdiction; and

Whereas, by an act of the Congress of the United States, entitled "an act to authorise the people of the Missouri Territory to form a Constitution and State Government, and for the admission of such State into the Union, on an equal footing with the original States, and to prohibit slavery in certain territories," approved March 6, 1820, the territory of the State of Missouri has been set forth, prescribed, and forever ceded by the United States to said State as the same is declared to be included within the following boundaries, to-wit:

"Beginning in the middle of the Mississippi river on the parallel of thirty-six degrees of north latitud; thense west along that parallel of that latitude to the St. Francois river; thence up and following the course of that river in the middle of the main channel thereof to the

parallel of latitude of thirty-six degrees and thirty minutes, thense west along the same to a point where the said parallel is intersected by a meredian line passing through the middle of the mouth of the Kansas river, where the same empties into the Missouri river; thence from the point aforesaid, north along the said meredian line to the intersection of the parallel of latitude which passes through the rapids of the river Des Moines, making the said line to correspond with the Indian boundary line; thence east from the point of intersection last aforesaid, along the said parallel of lattitude, to the middle of the main channel of the main fork of the said river Des Moines to the mouth of the same, where it empties into the Mississippi river; thence due east to the middle of the main channel of the Mississippi river, down and following the course of the Mississippi river in the middle of the main channel thereof to the place of beginning."

Which said boundaries have been ratified by and incorporated into the Constitution of this State.

And whereas by an act of the General Assembly of the State of Missouri, entitled "an act defining the northern boundary line of the State," approved February 16, 1837, it is enacted as follows:

1st. "The line as run and marked out by the commissioners appointed by this State, from the rapids of the river Des Moines to the Missouri river, in the year 1837, be and the same is hereby declared the northern line of this State.

2. This act shall take effect and be in force from and after its passage."

Which line mentioned in the first section, as appears from the report of said commissioners, filed among the archives of this State commencing at the Rapids of the Des Moines, on the parallel of north latitude 40 deg. 40 min. 06 sec. runs with said parallel westwardly until it strikes the Missouri river,

Now, Therefore, I, Lilburn W. Boggs, Governor of the State of Missouri, by virtue of the authority with which I am invested by the constitution and laws of this state, and in fulfilment of the obliga-

tion thereby imposed on me "to take care that the laws be distributed and faithfully executed throughout the State," do hereby order and command the officers, civil and military, of the counties of this state, adjoining the northern boundary as the same has been declared and established by the Legislature of Missouri, that they may cause the laws of this State to be observed and faithfully executed within the limits of their respective counties, and that if they are prevented or obstructed in the execution of any process, or the exercise of any official function by persons who claim not to be citizens of this State, and deny its jurisdiction and authority within the limits aforesaid, that they call to their aid the power of the county within which they are authorized to act; and if said obstruction arises from any unlawful assemblage of three or more such persons, that they report the fact to some judge or justice of the peace of this State in order that a proclamation may be issued commanding the persons thus assembled to disperse themselves, and depart peaceably to their homes—and in the event that such assemblage refuses to disperse when thus commanded or are armed, or make forcible resistance to such officers, then said officers are hereby commanded to call to their aid either the power of the county, or a sufficient number of the militia, or other persons on arms to disperse said assembly, arrest the offenders, and maintain the authority of the laws.

And I do further direct and order that the officers of the militia of the State of Missouri do hold themselves and their respective commands in readiness to render any assistance that may be required of them by the proper officers, in quelling any disturbance within the limits of this State, in enforcing the execution of lawful process, sustaining the civil officers in the exercise of their official functions, and in fully maintaining the dignity of this State and the supremacy of its laws.

And I do moreover forewarn all persons residing within the limits of the territory embraced by the present boundaries of the State of Missouri as they have been established by the laws thereof, from taking upon themselves any office or public trust, or exercise any

power or do any act not appertaining to such office or trust without a lawful appointment or deputation therefor from the proper authorities of this State.

And I do moreover expressly direct all officers, civil and military of this state, while they are required to execute fully their official duties within the aforesaid limits, over which the said territory of Iowa claims to be entitled to extend its authority, by virtue of a pretended right, and the exercise of an unlawful jurisdiction, so to conduct themselves as to create no unnecessary excitement, and to use their utmost efforts, consistent with the requisitions of the laws of this State, to suppress any needless collision, and to maintain an amicable feeling with the citizens of this State, and the United States residing within the territory of Iowa, and in every respect in the discharge of their official functions, to conform strictly and literally to the laws of this State.

In thus fulfilling the duty imposed upon me by the constitution and laws of the State, which are so ordered, that no right exists, which enables the executive to interpose its power in order to arrest, or even delay the progress of the civil authority until such time as the cause of the present difficulty shall be removed, and that no alternative is left but to carry the laws of this State into full and complete execution, I must at the same time express my sincere regret that the peaceful and kind interchange of friendly feeling between the citizens of this State and the citizens of the United States residing within the Territory of Iowa is likely soon to be harshly suspended and that a violent severance is about to be applied to this that should bind a people whose language, habits, pursuits and principles are the same, and whose mutual interest prompts them to be neighbors in sentiment as well as locality. In thus declaring my individual feelings on this subject, which, I have every reason to believe, are felt generally by the citizens of this State, I entertain the hope that the enlightened authorities of the Territory of Iowa will permit to be offered no obstruction to the peaceable and quiet administration of the laws of Missouri, within the ceded and constitutional limits of the State.

In Testimony Whereof, I, Lilburn W. Boggs, Governor of the State of Missouri, have hereunto set my hand, and caused to be affixed the great seal of the State of Missouri. Done at the City of Jefferson, in said State, this twenty-
(L. S.) third day of August, in the year of our Lord one thousand eight hundred and thirty-nine, of the Independence of the United States the sixty-fourth, and of this State the twentieth.

Lilburn W. Boggs.

By the Governor:

Jas. L. Minor, Secretary of State.

PROCLAMATION

By the Governor of Iowa Territory in Reply to the Proclamation of the Governor of the State of Missouri of the 23d of August, 1839

See below for this Proclamation as issued by Robert Lucas

Executive Department Iowa Terry
Burlington October 3d 1839.

Sir, It appears to be my misfortune to be drawn irresistibly into a controversy, with the authorities of the State of Missouri, on the subject of boundary. This controversy has been forced upon us, by the proceedings of the public authorities in the State of Missouri, as will be evidenced by the documents herewith transmitted. Documents marked, A, & B., are copies of the bill of the Legislature of Missouri, on the subject of her northern boundary— —, C, is a copy of a communication from the County Commissioners of Van Buren County, in the Territory of Iowa, complaining of certain invasions upon their right, by the authorities of Missouri., D., is a copy of a Proclamation issued by me, on the receipt of the communication from the Commissioners of Van Buren County, in this Territory, E, is a copy

of a Proclamation issued by the Governor of the State of Missouri, and, F, is a copy of my replication, to the Proclamation of the Governor of Missouri—As this subject is causing some excitement in the West, I have thought it to be my duty, to transmit these documents, to you, for your information, and that of the President of the United States.— They embody facts, that will enable you, to judge correctly, as to the true merits of the case, and the position of the parties—I am not aware, that any thing has yet transpired, that calls for the interposition, or acts of the President in this matter, unless he should deem it, to be, of sufficient importance, to be pressed upon the consideration of Congress, at the commencement of the next Session. Should the President, after an examination of these documents, think it advisable to make any suggestions to me, his advice will be thoughtfully received and promptly attended to—

With sincere respt I am your obt St

(Sub) ROBERT LUCAS

HON. JOHN FORSYTH

Secty of State, U S

KEOSAUQUA October 17th 1839

To His Excellency the Governor—of the Territory of Iowa

On Monday 14th Inst, the Sheriff of Clark County Masouria made his appearance in the County of Van Buren, to collect taxes, accompanyed with two or three men within the County of Van Buren he called on three or four of our citizens for their tax, and I have reasons to believe that one or two of the last Individuals caled on last refused to pay upon which the Sheriff said that he should sell their property to the amount of their tax and further I am credible informed that one or two of those individual last called upon made sum threats to the said Sheriff in case he molested their property,

Also it is further reported that the Sheriff returned to Waterloo and reported to the commanding officer. Since such time officers have been collecting in Waterloo making arrangements to march

there force of several hundred men in on Monday next for the purpose of taking Property or money of our citizens for taxes

Yours very respectfully

H. Heppleman

in haste Sheriff of V. B. Co

I. T.

Executive Department Iowa Tery

Burlington October 19th 1839.

Sir: Your letter of the 17th inst. was handed to me last night by Genl Swazey and was submited to the District Attorney Mr Starr, with my request that he should write to you on the subject, which he has done, and his letter is herewith transmited; Some weeks since Genl Gehon the U S Marshal was at this City, and I suggested to him, the importance of having a Deputy Marshal appointed in Van Buren County—he informed me that he would appoint you, and as Mr Van Allen, the U. S. District Attorney, was expected soon to be in Van Buren County, that he would send your appointment to you by him. I also send you a copy of my Proclamations, and a Copy of the State laws of Iowa, which is the only printed copy in Burlington;

By a reference to the laws defining crimes (See page 142) The 12, 32, 33, 62, 77, 81 & 90. Sections will give you correct information, as to the law on the subject, to which I particularly refer you, as well as to the laws, quoted in my first Proclamation, The laws defining the duties of Sheriffs, and Justices of the peace, will be found in the Volume of Iowa laws herewith sent. I do not know that I have any special instructions to give on this subject, further than are included in my proclamations, I trust however, that the officers of Iowa Territory, acting as they do, under the authority of the United States, will be as prompt, and vigilant, in enforcing the laws, and protecting the Citizens of the United States within this Territory,—as those of Missouri possibly can be, in their intrusion upon our rights. I have transmited copies of the Missouri laws, the letters of the Commissioners of Van Buren County to me, my two proclama-

tions, and a copy of that of the Governor of Missouri, to the President of the United States, so that they are apprised at Washington of our positions. Should any instructions be transmitted to me, by the President on this subject, they will be communicated to you.

With sincere respt I am your obt. svt

ROBERT LUCAS

HENRY HEPPLEMAN Esqr
Sheriff of Van Buren County

FARMINGTON Oct. 24, 1839

To his Excelency Governor of the Territory of Iowa

By request of the citizens of Clark County, Mo.—a delligation consisting of seven from Van Buren County Iowa Territory met a delligation of seven from Clark County met to deliberate on the present difficulties existing between Clark County Mo— and Van Buren County Iowa Territory relative to the boundary line upon which they presented us with the enclosed propositions and required us to meet those propositions or they were compelled to go to war with us Situated as we are at present I think that the Marshall's presance is required immediately or for him to appoint a deputy as I think we will stand in need of the power of the Territory imediately on the presant occasion

you stated in your letter of the 19th Inst that the marshall had appointed me deputy Marshall but the appointment has not come to hand therefore I would recommend Thomas J. Babcoke as a suitable person to the appointment of Deputy Marshall

Very respectfully

in haste

H. HEPPLEMAN Sheriff
of Van Buren Co. I. T.

ROBERT LUCAS
Governor of Iowa Territory

post script

We will be under obligations to you for an answer to this imediately, with sum instructions Very respectfully

ROBERT LUCAS H. HEPPLEMAN Shff
Governor of V. B. Co I. T.

The delegation on the part of Clark County State of Missouri propose to the delegation of Van Buren County Iowa Territory

1st That it is the wish of the citizens of the said County of Clark that the most friendly relations may be maintained between them and the citizens of Van Buren County Iowa Territory, and that we are willing to yeald to the said county of Van Buren all that we claim for the county of Clark untill Congress can finaly settle, the difficulty as relates to the boundary now in dispute between Said State and Territory—

2d That the civil officers of Said State and Territory be and they are hereby permitted to Exercise Concurrent jurisdiction over the ground now in dispute between Said State and Territory, untill the final decission and Settlement of their boundary by Congress, and that the officers each desist from interfering with the discharge of the official duties of the other, which may be Exercised upon Said disputed ground—

3 That the Counties of Clark and Van Buren be required, Each to pledge their honor and obligation to the other that so far as the boundary shall be decided against either of them, each will refund to the other all taxes and revenues after the present levy collected from the citizens residing on said disputed ground who may not fall within their proper limits

4th That the State of Missouri and Territory of Iowa, be required to suspend all military opperations on Said disputed ground untill the final action of Congress can be had on the question in dispute between Said State and Territory.

5th That the delegation both on the part of the Said County of Clark and State of Missouri and the County of Van Buren and Territory of Iowa, recommend to the chief Magistrates of both State and Territory a suspension of all hostilities, and that the most friendly

relations between the citizens of Said State and Territory be recommended and maintained untill the final action of Congress can be had on the Subject of the disputed boundary between Said State and Territory

If the same be consistent with the dignity and honor of Said State and Territory.

6th That the Sheriff of Van Buren County be permitted to collect the residue of the taxes levied by Said County on the disputed Territory and that the Said Sheriff of Van Buren County be required to deposit one half of the whole amount so levied and collected in the hands of the county court of Clark, the other moiety to remain in the hands of the authorities of Van Buren County and Each be required to Execute to the other a bond with security that all Such deposits shall be paid over to the party in whose favor the question of boundary be decided.

JOHN TAYLOR *Chairman*
CHANCEY DURKEE
DAVID HAY
CHARLES COOLEDGE *Sec* O. H. ALLEN
A. WAYLAND
JOSEPH MCCOY
FRANKLIN LEVERING

The deligation on the part of Van Buren County Iowa Territory object to the second proposition submited to them by the deligation from Clark County Mo— because we do not feel authorized or willing to sanction a concurrent jurisdiction to any other government over any part of the Territory recognized by General Government as being within the organized limits of the Territory of Iowa. But we are willing as it regards the collection of the taxes levied on said disputed ground, that all operations, in relation thereto be suspended, by both parties untill the first Monday March next should Congress not sooner decide the question. But in no wise can we sanction either a concurrent or absolute jurisdiction to be exercised over any part of said disputed ground untill the question of boundary is finally

settled then should the disputed ground be ceded to the State of Mo— we are willing that the authorities of Mo— shall collect the Taxes now levied and exercise unconditional jurisdiction over said disputed Territory

JOSEPH DAVIDSON
JAMES HALL
Secretary.

Copyed and forwarded By H. HEPPLEMAN
Sheriff of Van Buren
County Iowa Territory

In response to the rejection of our 2d proposition by the Delegation of Van Buren County we Say that we feel unauthorised to yeald jurisdiction to the Territory as the Constitution and Laws of our State give the right to us and that we previously to the organization of Iowa Territory Exercised jurisdiction as the records of our county officers will show, and that we hold that said jurisdiction should never have been wrested from us

JOHN TAYLOR Chairman
O. H. ALLEN
A. WAYLAND
CHANCEY DURKEE
FRANKLIN LEVERING
JOSEPH MCCOY
DAVID HAY

A true Copy
CHARLES COOLEDGE Sec.

EXECUTIVE DEPARTMENT IOWA TERRTY
BURLINGTON October 26th 1839.

Sir, I received your letter by Mr. Babcocke, and its enclosures. It appears by the documents enclosed, that the authorities of Missouri, are determined to provoke by their arrogance, the citizens of Iowa, into a collision with them. There is no authority in this Territory, that can compromise the jurisdiction of the United States, or suspend the operation of the laws—Myself, Judge Mason, and Judge Williams, who was at this place, signed a joint letter, addressed to

the Marshal of the U. S. informing him, of the situation of affairs, advising him that his presence, on the borders, was necessary, and requested his prompt attention to the subject—This letter was dispatched to the Marshal by express. When he arrives, he will of course, controll the proceedings. In the meantime, I have no further instructions to give, than were contained in my proclamations.

I have forwarded to Genl Swazey, several blank Military Commissions, to fill up, should he find it necessary. I fully appreciate your situation, and the responsibility that rests upon you in the present occasion. Should Genl Gehon arrive, it will measurably relieve you of a considerable portion, of the responsibility that now rests upon you.

With a full confidence that you will discharge your duty with facility, I remain

Your sincere friend, and obt st

ROBERT LUCAS

HENRY HEPPLEMAN Esq
Sheriff of Van Buren Co.

EXECUTIVE DEPARTMENT IOWA TERRY
BURLINGTON October 29th 1839

Genl V. P. Vanantwerp Adjutant General of Iowa Militia.

Sir, You are required to repair to the southern boundary of the Territory of Iowa, within the County of Van Buren, and aid by your Council and advice, the authorities of that County, in preserving public order, within the bounds of this Territory. You will advise our Citizens to be circumspect in all their acts, and to act in strict subordination to the civil authority,—Should the laws of the Territory, or those of the United States, be violated within this Territory; That all due diligence be used, to arrest the offenders, and cause them to be brought before the proper judicial tribunals to be dealt with according to law. But should the Territory of the United States be invaded by an armed force of a character too powerful to be resisted

by the ordinary civil authority, that evidence of the facts be taken in writing and reported to this department, to be transmited to the President of the United States for his interposition and instructions.— The whole subject is submited to your discretion under a confident belief that you will give such advice, and adopt such measures, as are best calculated to preserve order, protect the rights of the citizens, and maintain the supremacy of the laws of the United States, within the Territory of Iowa. Vy respectfully

Your obt svt

ROBERT LUCAS

At a meeting of the citizens of Van Buren Co held at Keosauqua on the 30th day of October A D 1839 agreeably to previous notice Major Henry King was chosen chairman and Frye B. Hazleton appointed Secretary.

The object of the meeting was explained by James Hall and by reading the proposition of the Delagation from Clark County Missouri at a meeting held on Indian Creek in Van Buren Co by the Delegates from Clark & Van Buren Counties October 24th 1839, and the Reply of the Delegation from Van Buren County and the Response to said reply by the Delegation from Clark Co Mo—

On motion of Ephriam McBride Esq Resolved that Abner Kneeland be requested to express his views on the subject now before the meeting which was adopted, whereupon Mr Kneeland rose and expressed himself fully in favor of the proceedings and sentiments of the Delegation to Clark Co and that he cordially and heartily sustained the people of this county in defence of their rights in resisting the encroachments of Missouri upon our Territory

On motion of Isaac N Lewis Esq Resolved that the meeting concur in the sentiments expressed by Mr Kneeland which was unanimously adopted

On motion of J Knight Esq it was resolved that this meeting express their approbation of the Delegation of this County in not submitting to the proposition of the Delegation from Clark Co Mo—

On motion of Capt James Hall it was Resolved that Capt Isaac N Lewis and Abner Kneeland be appointed as Messengers from this county to bear the sentiments of this meeting to Clark Co Mo. at Waterloo on Friday next.

On motion of J Knight Esq Resolved that a spirited resolution be adopted embodying the sentiments of this meeting to convey to Clark Co Mo on Friday next

On motion of Gen Davidson Resolved that James Hall and Abner Kneeland be appointed a committee to draft said resolution — whereupon the committee retired and reported the following resolution which was unanimously adopted.

Resolved — That we do fully approbate the proceedings of the Delegation sent from this county who met a like delegation from Clark County Mo on the 24th Inst on Indian Creek —

On motion of Abner Kneeland Resolved that the proceedings of this meeting be signed by the chairman and secretary and that a copy be sent to the Governor of this Territory.

On motion of Gen Davidson Resolved that this meeting adjourn *sine die* —

HENRY KING
Chairman.

Attest
FRYE B HAZLETON
Secretary.

At a meeting of the citizens of Van Buren County Iowa Territory holden in Keosauqua on the 29th of October 1839 for the purpose taking into consideration the proceedings of a meeting of the delegates appointed on the part of Clark County Mo and of the delegates on the part of Van Buren County I. T. on the 24th of Oct 1839 The meeting after due deliberation passed a resolution approving of the rejection of the delegates on the part of Van Buren County I T of a proposition to them from the delegates on the part of Clark County Mo To admit concurrent jurisdiction over the disputed territory to the authorities of Missourie. At which meeting we the

undersigned were appointed messengers to bear said resolution to a committee of Clark County Mo The committee after receiving said resolution passed resolutions of which the following is a true copy

"Whereas we a committee of the citizens of Clark County having been presented with a report of a meeting of the citizens of Van Buren County Iowa Territory by a committee from that county approving of the action of a committee of Van Buren County had on Indian Creek in conference with the delegation from Clark County on the 24th Oct 1839 Thereby sanctioning the refusal of that committee to comply with the proposition made by Clark County Therefore be it resolved

1st That we still adhere to our rejection of the proposition made by the delegation of Van Buren County on the 24th Oct 1839

2d That we recommend to the authorities of Clark County to proceed immediately to the collection of the taxes levied by said county on the disputed territory and to exercise the unlimited jurisdiction that the constitution and laws of our state guarantees to us. Done at Waterloo the 1st day November 1839

Signed
Charles Cooledge
Secretary

Thomas Rutherford
Joseph McCoy
Abraham Wayland
Franklin Levering
May Johnson
John Tayler

With respect to immediate hostilities we were informed by a Gentleman to be relied upon that three divisions of troops were ordered out we were also informed by Judge Tayler of Clark County that the Sheriff of Clark County Mo on Tuesday next would attempt to collect taxes in the disputed territory alone and that the marching of an armed force into our territory will depend upon the report that the Sheriff makes after his attempt to collect taxes on Tuesday This 2nd day of Nov 1839

Abner Kneeland
Isaac N. Lewis

I was in Waterloo on the 1st and 2d of Nov and saw an order from Gov Boggs to General Wellack to raise three divisions of troops for the purpose of assisting the Sheriff of Clark County Mo to collect the taxes on the disputed territory and to take command of said divisions this 3d day of Nov 1839.

JOSEPH DAVIDSON

We were told while at Waterloo that they did not regard the taxes as amounting to any thing that citizens of Clark County had offered to pay the taxes on the disputed Territory but they wanted concurrent jurisdiction This 3d day of Nov 1839

ABNER KNEELAND
ISAAC N LEWIS

SPECIAL SESSION MESSAGE

JULY 14, 1840

From the Journal of the Council, p. 9

To the Honorable Council and House of Representatives of the Legislative Assembly:

Gentlemen:—Having convened in pursuance of a special legislative act, of the 15th of January last, I conceive it to be my duty to lay before you such information, and to suggest for your consideration such subjects as may be required by the public interests, to occupy your attention during your session.

By the 5th section of "An Act to provide for the erection of a penitentiary, establish and regulate prison discipline for the same"—Approved January 25, 1839—it was made the duty of the Governor to draw from the Treasury of the United States, the sum of twenty thousand dollars appropriated for the erection of public buildings in the Territory of Iowa, by an Act of Congress, approved July 7, 1838, and to pay the same over to the superintendent, to be used by him for the purchase of materials and pay of workmen and labor necessary to erect said buildings.

The whole of this appropriation has been drawn for on estimates furnished by the superintendent, approved by the directors; and I presume it has been judiciously expended by them. I have not been officially informed as to the condition of the work or the situation of the convicts that have

been sentenced to the penitentiary; but presume that the directors will lay the whole facts specially before you during your session; which in all probability, will require some immediate legislative action. I therefore respectfully invite your attention to this subject.

By the 4th section of the "Act supplementary to an Act to locate the seat of government of the Territory of Iowa, and for other purposes," approved 21st of January, 1839, it was made the duty of the Governor to draw from the treasury of the United States the sum of twenty thousand dollars, appropriated by Congress in the thirteenth section of the Organic Law, approved June 12, 1838, to be applied by the Governor and Legislative Assembly to defray the expenses of erecting public buildings at the seat of government.

On an estimate furnished by the Commissioners of Public Buildings, dated March 16, 1840, a requisition was made on the treasury of the United States for the sum of fourteen thousand six hundred and forty dollars, which sum was received in a draft on the receiver of the public moneys at this place, made payable to my order. On the receipt of this draft, I indorsed it to Thornton Bayless, the Treasurer of the Territory, who drew the money from the receiver and paid it over to the acting Commissioner of Public Buildings on proper vouchers produced by him.

On the 8th of June last, an estimate was forwarded me, by the commissioner, for the sum of five thousand three hundred and sixty dollars, being the balance of the appropriation of twenty thousand dollars. This estimate was immediately forwarded to the Secretary of the Treasury of

the United States, with a requisition for a draft on the State Bank of Missouri or the receiver of public moneys at this place. The draft on this last requisition has not yet been received. When received it will be immediately placed in the hands of the Treasurer of the Territory to be paid over to the acting Commissioner of Public Buildings on the production of proper vouchers by him. Thus the whole of the funds appropriated by Congress for the erection of public buildings in this territory, amounting to forty thousand dollars, have been drawn for.

The appropriation of twenty thousand dollars, that has been applied to the erection of public buildings at the seat of government, with the aid of the funds that may be obtained from the sale of lots in the city of Iowa, if judiciously managed, will in my opinion be amply sufficient to complete the public buildings in accordance with the plan adopted by the Commissioners and leave a surplus to be applied to other public improvements. But, to avail ourselves of all the advantages to be derived from the sale of lots in the city plat, it appears to me that the laws that relate to the sale of said lots should be revised. I therefore, respectfully suggest, to the consideration of the Legislative Assembly the passage of a law fixing an average minimum price upon the lots, say from two to three hundred dollars per lot; and to authorize the Commissioners to apportion the aggregate sum of the whole number of lots by fixing upon each lot, a specified price—grading the same in proportion to the relative and real value of each individual lot, so as not to reduce the aggregate sum of the whole below the aggregate minimum price fixed in the law. After having the lots thus valued,

I would suggest the propriety of authorizing a public sale when there might be a fair competition among purchasers, and after such sale to authorize the acting Commissioner to sell at private sale, under proper regulations, all lots, at the fixed price, that might not have been sold at the public sale. This method would, in my opinion, be an accommodation to individuals who might wish to procure lots for improvement. It would guard against individual speculation, and secure to the Territory all the benefit resulting from the public expenditures in the city.

I would also respectfully suggest to the consideration of the Legislative Assembly a revision of the laws that relate to the execution of title-deeds to lots in Iowa City. It seems to me the more convenient method would be to require the certificate of final payment, signed by the acting Commissioner, to be filed in the office of the Secretary of the Territory, and that on such certificate being filed the Secretary of the Territory should make out a deed under the seal of the Territory, to be signed by the executive and countersigned by the Secretary, and that the original certificate should be filed in the Secretary's office, and a record of all deeds of conveyance kept therein.

On a visit to Iowa City on the 4th instant, I was gratified to see the extensive improvements that have been made in that place within the last year. The basement story of the capitol is nearly completed, and in justice to the acting Commissioner, as well as the gentlemen who performed the work, I must say that, so far as the work had progressed, it was done in the most substantial and workmanlike manner; but I learn that, owing to the difficulty in procuring stone of

sufficient size for cutting, it has been thought advisable by the Commissioners to change the plan first contemplated of building the house of cut stone, and they have adopted another plan that will be less expensive, more expeditious, and of equal utility, the particulars of which will be explained to you in detail by the Commissioners in their report, that will be by them submitted to you.

I perceive, by the journals of Congress, that a bill was reported by the committee on territories to the House of Representatives, early in the session, to enable the people of the territory of Iowa to form a constitution and state government and for the admission of such state into the Union. This bill was reported in connection with a bill extending the same privilege to the citizens of Middle and West Florida. I have not yet learned the fate of these bills, but presume that they will both pass together and probably the present session of Congress. I therefore, suggest to the Legislative Assembly the expediency of providing by law for taking the sense of the people of this territory on the subject of a convention at the ensuing annual election. It appears to me that there can be no objection to submitting this subject to the people for their consideration, as an expression of public opinion thereon, through the ballot-box, would enable the ensuing Legislative Assembly to act understandingly, and in accordance with the expressed will of the people on this important subject.

I regret that I have not been able to procure a statement of the number of inhabitants of the territory. The Marshal of the United States informs me that the returns from the counties have not all been received by him, but they may

be expected in a few days. As far as I have heard we have doubtless doubled our population within the last two years, and we have now in the Territory many more inhabitants than will be contained in the official enumeration, which is confined to the first of June; and, before the necessary preliminary measures to prepare the way for our admission into the Union, I have no doubt but that our population will be sufficiently numerous to justify us in claiming a rank among the independent states.

That harmony may prevail in your deliberations, and all your efforts be directed to the promotion of the public good, is the sincere wish of

Your obedient servant,

ROBERT LUCAS.

BURLINGTON, JULY 14, 1840.

THIRD ANNUAL MESSAGE

NOVEMBER 3, 1840

From the Journal of the Council, p. 10

Gentlemen of the Council, and House of Representatives:

I conceive it to be my first duty, on our present meeting, to direct your attention to the Providential favors which our common country has experienced in the degree of health dispensed towards its citizens, and the unusual abundance with which the soil has rewarded the labor bestowed upon it. The unparalleled improvements in our Territory present an unerring index to the prosperity and happiness of the people, which should excite within our breasts feelings of the most profound gratitude towards the author of those favors and the gracious dispenser of all good.

The excitement produced by the intrusions upon the rights of the citizens of Iowa, by the authorities of Missouri, near the boundary line, has subsided. The prosecution commenced under the laws of the Territory against a Sheriff of Missouri, has been dismissed, and no farther attempts have been made by the authorities of that State to exercise jurisdiction north of Sullivan's line. The committee of Congress, in the House of Representatives, at the last session, after an elaborate examination of the subject, were of opinion, that the legitimate boundary line, as defined in the original act of Congress and in the Constitution of the State of Missouri, would begin at the centre of the Des Moines

rapids, in the Mississippi river, and run from thence on a parallel of latitude due west, which would be several miles south of the line contended for by the authorities of this Territory. The committee at the same time this opinion was expressed, recommended the adoption of the line commonly known as the old Indian boundary, or Sullivan's line; and reported to the House of Representatives in Congress a bill to establish that as the permanent boundary line of the State of Missouri and the Territory of Iowa. This report appeared to be founded in equity, This line had been generally conceded as the boundary between Missouri and this Territory. It had divided the Surveyors General districts and the land districts of the U. States lands. The citizens who purchased land south of this line did so with the impression that they were purchasing in the State of Missouri, and those who purchased north of it, with the belief that they were purchasing in the Territory of Iowa. The purchasers of these lands were governed in their purchases by their locations. Some preferred being in Missouri and others in the Territory. Were this line now altered, it would be attended with great inconvenience to many citizens on both sides of it. We therefore trust that the bill, as reported, will be passed by Congress at the ensuing session, and that the line thus designated may be finally established as the boundary between the State of Missouri and this Territory. Though a strictly legal line might embrace within this Territory a small portion of the inhabitants south of this line, yet we have never had a desire to embrace within the limits of this Territory any tract of country that had been purchased by individuals at the land office in Missouri and set-

tled upon by them as being within that State—and I trust that the same liberal feelings will be reciprocated by the inhabitants of Missouri towards our citizens.

At the special session of the legislative assembly, a memorial was passed, memorializing the President of the United States to cause the annuities due the Sac and Fox Indians to be paid to the heads of families, or to such persons as a majority of the nation might request. The memorial was immediately transmitted to Washington, but previous to its arrival an order had issued from the Indian Department, dated 18th of August, 1840, directing the annuity for the present year to be paid to the chiefs as heretofore. On the 28th of September the Indians were assembled at the Agency for payment. They arrayed themselves into two parties. One party wanted the money distributed on principles of justice and equity among the different bands and to the heads of families. The other party contended for its payment to a few of the chiefs, to be distributed by them alone. I was present on the occasion, and addressed both parties. I advised them to compromise the difference among themselves—read and explained to them the treaties, as well as the intercourse law of the United States, and the regulations of the Indian Department. I also explained to them the order of the Indian Department of the 18th of August, and informed them that, according to my understanding of the order, the money must be paid to the same chiefs and braves that received it last year. I had the names of the chiefs and braves read to them, and advised them to meet in friendly council by themselves without the interference of any white men, and to decide among themselves as to the re-

ceipt and distribution of the money—and told them that when they had agreed among themselves the money would be paid them. The council adjourned in the evening, and the chiefs and braves who received the money last year were expected to have met in friendly council next morning to arrange their difficulties and receive their money. But some arrangements appear to have been made at the agency during the night, unknown to me, that frustrated the council to be held on the morning of the 29th, and Keokuck through the Agent, had advised Maj. Pilcher to leave the Indian country with the money, which he did that morning. This removal of the money from the Indian country caused great excitement and dissatisfaction among the Indians. When Maj. Pilcher left the agency he informed me that the funds being in paper, could be changed for specie, and might be returned for payment in about three weeks thereafter. I informed the Indians of what Maj. Pilcher had told me, which appeared for the time present to reconcile them. But I have learned, since my return from the Indian country, that some mischievous individuals have been impressing upon the minds of the Indians the belief that the annuity will not be paid until spring. This was calculated to dissatisfy them with the government, lead to difficulties among themselves, and endanger the peace of our borders. I therefore, with a view to check these evils, issued a peremptory order to the Agent of the 15th of October, directing him to obtain the funds that had been set apart for the payment of the annuity for 1840, and to pay it to the same chiefs and braves whose names were found to the receipt roll of last year. This I conceived to be in strict accord-

ance with the order of the Department.—Those chiefs and braves number about 30, and are distributed about equally among the different parties; and should the money be paid to them in accordance with my order to the Agent, and they be left to dispose of it among themselves, without the interference of any of the traders, I have little doubt but that it will be distributed among the different bands justly, and be paid, as far as it will go, towards the liquidation of their just debt. But should the payment, from any consideration, be much longer delayed, there is danger that the excitement produced by its postponement will burst beyond the bounds of restraint and the Indians commence fighting among themselves and thereby endanger the peace of our frontier. I have conceived it to be my duty to present the foregoing facts for the information of the legislative assembly. It is certainly our duty to look to these things, to be watchful of their operation and of the movements of the Indians, so that we may not be taken by surprise. And while we make use of all the means under our control to sustain peace and harmony among our Indian neighbors as well as between them and our citizens, we should be prepared to meet every possible contingency that might endanger the peace of our frontier. I have in my report to the Indian Department, given a detailed account of the situations of the Indians, with a full explanation of my views as to the cause and probable issue that may be produced by the excitement that now exists among them. The situation of this nation, in connection with the Winnebagoes who have recently been removed to the tract of country within this Territory, known as the neutral ground, bordering in part

on our northern settlements, and partly on the Sac and Fox country, should admonish us to be on our guard and to depend upon ourselves for defence in case hostilities should be commenced by them. In consideration of this state of things, I would respectfully suggest to the legislative assembly the expediency of authorizing by law, the organization of a number of mounted volunteer riflemen, say one company at least to every regiment of militia within the Territory, with authority for the commandant of any brigade to increase the number to a battalion within his brigade, and to provide for calling them into service in case of Indian depredations or threatened invasion. This precautionary measure can do no harm, and may ultimately secure our frontier from an Indian war.

The Secretary of War informed me sometime since, that the Department had determined to establish a depot of public arms and munitions of war at Rock Island, to be supplied to the citizens of the Territory under proper regulations, should the same be wanted to enable them to defend themselves against Indian hostilities, but I have not yet heard that any have been deposited at that place.

The votes given at the late general election for and against a State Convention, were against a Convention by a large majority. The sentiments of the people of the Territory thus indicated will necessarily preclude all further legislation on the subject at the present session.—The people have, by their votes, expressed their preference for a Territorial Government for the time being. It will therefore become your duty to adopt a regular financial system for the Territory, by which the Territory will be enabled to

control funds sufficient to meet the necessary expenses incidental to Territorial affairs. I would, therefore, recommend to the consideration of the legislative assembly a review of the financial laws so as to provide a revenue sufficient in amount to meet the actual wants of the government, distributing the burthen and the benefits among every class of community upon principles of exact justice to all. The Auditor of the Territory will report to you his views on this subject, to which I solicit your respectful attention.

On an estimate forwarded to the Treasury Department of the United States, by the Executive of the Territory, estimating the expenses for the year 1840, there has been appropriated for the pay and mileage of members of the present legislative assembly, for the pay of officers, for printing, furniture, stationery, fuel and all other incidental expenses, $27,050. This sum is deemed sufficient to meet all necessary expenses.—I would therefore recommend to the consideration of the legislative assembly the propriety of confining the expenditures authorized by them, within the appropriation. The Secretary of the Territory informs me that there is upwards of six thousand dollars due to individuals for furniture, stationery, and services rendered to the legislative assembly at the two first sessions, and for which no funds have been provided for payment. This deficiency I reported to the Treasury Department with my estimate for the expenses of the year 1841, and solicited an appropriation to meet it.

This method of contracting debts with individuals beyond the means of payment, is practising a deception upon the public creditors, and ought, in my opinion, to be carefully avoided.

By reference to the appropriation bills, it appears that there were allowed to the clerks and officers of the legislative assembly at the two first sessions the following sums, to wit: first session, to the clerks and officers of the Council, $2,850, and to the clerks and officers of the House of Representatives, $3,300; second session, to the clerks and officers of the Council, $3,525; and to the clerks and officers of the House of Representatives, $2,925. These aggregate sums were embraced in the appropriation bills, but there is no law in existence in the Territory that defines the officers to whom this money was paid, or the compensation allowed to any such officers. Until such a law shall be passed, establishing the number of officers and fixing their compensation, it will be impossible for the Executive to comply with the annual requisition of the Secretary of the Treasury Department in furnishing him with a correct estimate of the sum necessary to defray the current annual expenses of the legislative assembly of the Territory. The States generally define by law the number of clerks and officers employed in each branch of the legislative assembly. By the laws of Ohio, the number of clerks and officers to each branch, and the compensation of each, are specially defined. According to the laws of that State, the compensation of the clerks and officers of both branches of the legislative assembly, for a session of seventy-five days, would amount to $1,200. In this Territory, at the first session, it amounted to $6,150, and at the second to $6,450. These statements are submitted to the candid consideration of the legislative assembly, with a request that a law may be passed to provide for organizing the legislative assembly, defining the number of

officers to be employed, together with the compensation allowed to each.

In recommending this measure, I disclaim any desire on the part of the Executive to prescribe to the legislature the number or character of officers to be employed in their respective branches, or the compensation to be allowed to such officers. The legislature is the proper judge in these things; and it is but fair to presume that it will employ none but such as are necessary to the convenient despatch of business, and that a compensation adequate to the services of such officers will be allowed them respectively.

I am not aware that any important general subject will be presented for legislative action. Your predecessors have passed laws embracing all general subjects. Their recent enactments would seem to require their continuance in force, excepting in cases where they may have been found defective. Frequent changes of general laws are always attended with inconvenience to the public, and should be altered only with great caution.

Should any subject requiring the attention of the legislative assembly be communicated to the Executive during your session, it shall be promptly laid before you; and you may rest assured of the co-operation of the Executive in all measures that may be calculated to secure the prosperity of our country and to advance the physical, intellectual and moral condition of its inhabitants.

That all your efforts may harmonize in promoting the public good, is the sincere desire of,

Gentlemen, your very obedient servant,

ROBERT LUCAS.

BURLINGTON, IOWA TERRITORY NOV. 3d, 1840

VETO MESSAGES

TO THE COUNCIL

DECEMBER 19, 1838

From the Journal of the Council, p. 110

EXECUTIVE DEPARTMENT, IOWA TER.
December 19, 1838.

To the Council of the Legislative Assembly:

Gentlemen—I have examined with attention the act entitled "An act regulating the intercourse between the Legislative and Executive Departments of the Territory of Iowa," and regret that I am compelled to withhold from it my assent in its present form.

The constitutions of many of the States prescribe the manner in which bills shall be presented to the Executive, and point out the time and manner of their return to the Legislature if objected to by the Executive. The Organic Law of Iowa Territory, is entirely silent on this subject, but declares, that the Governor "shall approve all laws passed by the Legislative Assembly before they shall take effect," leaving the whole subject entirely to the discretion of the Executive.

Believing that a law regulating the intercourse between the Legislative and Executive branches of Government, that would not interfere with the prerogative of either, would be of mutual advantage as a rule of action to both. With this view I conferred with the committee appointed by the Coun-

cil for the purpose, and consented to the details of a bill that was reported to the Council by that committee. In comparing the bill submitted for my consideration, with the one originally reported by the committee, I find that the section that was inserted with a view to keep up a mutual conference, and to open the way to a mutual reconciliation of conflicting views, has been stricken from the bill; also the time within which the Executive was required to return an act, etc., with his objections, to the Legislative Assembly, has been altered from ten to five days, *with these alterations I can never concur*, but am still willing to yield my assent to the bill if passed as originally reported by the committee. Until this is done I must use my own discretion, under the Organic Law, *and for your information will state the course I intend to pursue.*

All bills, resolutions, or memorials, submitted to me, will be carefully examined, and if approved, will be signed and deposited in the office of the Secretary of the Territory. If special objections are found, but not sufficient to induce me to withhold my assent from the bill, resolution, or memorial, a special note of explanation will be endorsed with my approval.

Bills, resolutions, or memorials, that may be considered entirely objectionable, or of doubtful policy, will be *retained under advisement* or returned to the Legislative Assembly, with my objections, at such time, and in such way and manner as I may, for the time being, deem to be most advisable.

With the foregoing observations I herewith return the bill to the Council without my assent thereto.

Very respectfully, Your obt. servant,

ROBERT LUCAS.

TO THE HOUSE OF REPRESENTATIVES

DECEMBER 29, 1838

From the Journal of the House of Representatives, p. 150

EXECUTIVE DEPARTMENT, IOWA TERRITORY,
Dec. 29th, 1838.

To the House of Representatives of the Legislative Assembly.

Gentlemen—There was this morning presented to me for my consideration a resolution in the following words:

Resolved by the Council and House of Representatives of the Territory of Iowa, that Wm. B. Conway, Esq., be, and he is hereby appointed "fiscal agent" of the Legislative Assembly, during its present session, and that all advances of money made by him shall be refunded to him out of such money as shall hereafter be appropriated by Congress.

(Signed)

W. H. WALLACE, Speaker H. R.
J. B. BROWNE, Pres't. of Council.

There is no part of the resolution than can meet with my concurrence. Both the creation of the agent and the power attempted to be conferred by the resolution, I believe to be in contravention of the organic law.

The Secretary of the Territory is, by the organic law, created the disbursing agent of the appropriation made by Congress, to defray the expenses of the present legislative assembly, and this legislative assembly, in my opinion, has no power directly or indirectly, to control the application of money that may be appropriated by Congress to defray the expenses of the next legislative assembly.

Under this impression, I return the resolution with my entire dissent.

Very respectfully, your obedient servant,

ROBERT LUCAS.

TO THE HOUSE OF REPRESENTATIVES

DECEMBER 31, 1838

From the Journal of the House of Representatives, p. 154

EXECUTIVE OFFICE, IOWA TERRITORY,
December 31st, 1838.

To the House of Representatives of the Legislative Assembly:

Gentlemen — I herewith return the bill to divide the county of Henry and establish the county of Jefferson. My objections to the bill in its present form are, 1st, that it extends into the Indian country, 2d, that it divides surveyed townships, which I think ought in all cases to be avoided. I would therefore recommend a modification of the boundaries so as to bound it by township lines, and the Indian boundary line. With these modifications the bill will meet with my cordial approval.

Very respectfully, your obedient servant,

ROBERT LUCAS.

TO THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1839

From the Journal of the House of Representatives, p. 176

EXECUTIVE DEPARTMENT, IOWA TERRITORY,
January 4, 1839.

To the House of Representatives of the Legislative Assembly:

Gentlemen—There was presented to me for my consideration a resolution in the following words:

"Resolved, by the Council and House of Representatives of the Territory of Iowa, That when an act is presented to the Governor for his approval, he shall, within a reasonable time thereafter, make known to the House in which said act may have originated of his approval thereof; or, if not approved of, the act shall be returned, with his objections thereto.

(Signed) W. H. WALLACE, Speaker H. R.
J. B. BROWNE, Pres't. of Council."

I see no place in the organic law, that vests the Council and House of Representatives with the right to dictate to the Executive in the discharge of his official duties. I also, received another resolution in the following words:

"Resolved, by the Council and House of Representatives of the Territory of Iowa, That the Postmaster, at Davenport, Scott county, be and is hereby authorized to have the mail from Davenport to Du Buque conveyed in two horse post coaches, twice a week during the present session of this legislative Assembly, and that the Post Master General of the United States be memorialized by the legislative assem-

bly to allow and pay the extra expenses that may be incurred under this resolution.

(Signed) W. H. WALLACE, Speaker H. R.
J. B. BROWNE, Pres't. of Council."

In this resolution the Council and House of Representatives, have, in my opinion, assumed powers that can only be exercised by the Congress of the United States, and the Post Master General under the laws of the United States.

Both resolutions are herewith returned without my approval. Respectfully, your ob't. servant,

ROBERT LUCAS.

TO THE COUNCIL

JANUARY 8, 1839

From the Journal of the Council, p. 150

EXECUTIVE DEPARTMENT, (I. T.,) Jan. 8, 1839.

To the Council of the Legislative Assembly:

Gentlemen—I have examined the Bill submitted for my consideration, entitled "An Act to incorporate the City of Du Buque," and find in it the following provisions, to wit:

4th Section, "That the Mayor of said city shall be elected by the qualified voters thereof, on the first Monday of March, biennially, and shall hold his office for the term of two years, and until his successor shall be chosen and qualified. And previous to his entering on the duties of his office as Mayor, shall be commissioned by the Governor, as a justice of the peace," and in defining his powers, it is declared in said section, "That he shall in his judicial

capacity, have exclusive original jurisdiction of all cases for the violation of the ordinances of said city, and criminal jurisdiction in all cases where, by the laws of the Territory, justices of the peace, within the county of Du Buque, are, or shall be, authorized to hear and determine, or in any manner have power to act, and for the due and efficient exercise of the power herein and hereby vested in him, he shall have power, and it shall be lawful for him to award all such process, and issue all such writs as may be necessary to enforce the administration of right and justice throughout said city, and for the lawful exercise of his jurisdiction agreeably to the usages and principles of law." After defining the jurisdiction of the Mayor in certain cases, and pointing out the mode of appeals to the District Court, the section proceeds, "And the said District Court of the county of Du Buque is hereby authorized, empowered, and directed, to take cognizance of, and hear and determine all such cases as shall be brought before them by appeal, as aforesaid, and to assess such fine, and pass such judgment against the defendant or defendants as shall be provided by ordinance of said city. The Mayor shall, moreover, have power to take and certify the acknowledgments of all deeds for the conveyance or incumbrance of real or personal estate, situated in the Territory of Iowa. And it shall be lawful for him to order any person or persons, brought before him charged with the commission of any criminal offence, in any State or Territory of the United States, upon proof by him adjudged sufficient, to direct such accused person or persons to be delivered to the Governor of this Territory (or State, as the case may be) who shall

cause such person or persons to be conveyed to the proper jurisdiction for trial."

I will make no comments on the foregoing, further than to call your attention to the subjoined extracts from the organic law, relative to the judicial powers of the Territory, the appointment of justices of the peace, and other officers, and the act of Congress relative to fugitives from justice, and solicit a careful examination and comparison of them; and will ask the Council, whether, after such examination and comparison, they can, by any rules of construction, be reconciled.

The 7th section of the Organic Law declares, that "the Governor shall nominate, and by and with the advice and consent of the Legislative Council, shall appoint, all judicial officers, justices of the peace, sheriffs, and all militia officers, except those of the staff, and all civil officers not herein provided for."

The 9th section of the Organic Law declares, that "the judicial power of said Territory shall be vested in a Supreme Court, District Courts, Probate Courts, and in Justices of the Peace." Here ends the judicial power of the Territory.

The 1st section of the act of Congress, relative to fugitives from justice, declares, "that whenever the Executive authority of any state in the Union, or of either of the Territories northwest or south of the river Ohio, shall demand any person, as a fugitive from justice, of the Executive authority of any such state or Territory to which such person shall have fled, and should moreover produce the copy of an indictment found, or an affidavit made before a magistrate of any State or Territory, as aforesaid, charging the

person so demanded with having committed treason, felony, or other crime, certified as authentic by the Governor or Chief Magistrate of the State or Territory from whence the person so charged fled, it shall be the duty of the Executive authority, of the State or Territory to which the person so charged fled, to cause him or her to be arrested, and secured, and notice of the arrest given to the Executive authority making such demand, or to the agent of such authority appointed to receive the fugitive, and to cause the fugitive to be delivered to such agent when he shall appear; but if no such agent shall appear within six months from the time of the arrest, the prisoner may be discharged. And all costs or expenses incurred in the apprehending, securing and transmitting such fugitive to the State or Territory making such demand, shall be paid by such State or Territory."

The act of Congress of the 12th February, 1793, must control all proceedings relative to persons charged with criminal offences in any State or Territory, that may have fled to any other State or Territory within the United States.

I will, therefore, in conclusion, solicit the Council to examine the provisions of the bill herewith returned, as above alluded to; and will ask the question, can the manner pointed out in the bill for electing the Mayor, and requiring him to be commissioned by the Governor as a Justice of the Peace, and the judicial powers attempted to be conferred upon him in the bill, be reconciled by comparison with the foregoing extracts from the Organic Law? Can the powers attempted to be conferred upon the Mayor relative to per-

sons charged with criminal offences in other States or Territories, be, on comparison, reconciled with the foregoing extracts from the act of Congress? I think not.

Respectfully, your obt. servant,

ROBERT LUCAS.

TO THE HOUSE OF REPRESENTATIVES

JANUARY 23, 1839

From the Journal of the House of Representatives, p. 272

EXECUTIVE DEPARTMENT IOWA TERRITORY,
January 23, 1839.

To the House of Representatives of the Legislative Assembly:

Gentlemen,—I have examined the bill presented for my consideration entitled An act to provide for the compensation of the sheriffs of the different counties of the Territory for ordering elections and posting up notices.

The first section of which commences as follows:

"Sec. 1. Be it enacted by the Council and House of Representatives of the Territory of Iowa, that there shall be paid out of the sum appropriated by Congress for defraying the expenses of the Legislative Assembly of Iowa for the year 1838–'9," naming the different sheriffs and sums respectfully allowed.

This bill in my estimation is defective and does not secure to the gentlemen therein named the several sums therein allowed. If the intention of the bill was to pay these allowance out of the appropriation made by Congress to defray the expenses of the present Legislative Assembly, it should have been so expressed; but if it was the intention to have

them paid out of the sum that may be appropriated by Congress to defray the expenses of the next Legislative Assembly, I consider that the Legislative Assembly, exceeded their power in passing it. As I observed on a former occasion, I do not believe this Legislative Assembly possesses any power to control either directly or indirectly the appropriation of money that may be appropriated by Congress to defray the expenses of the Legislative Assembly.

If the principle was admitted that this Legislative Assembly has the right to control the application of one dollar of the appropriation that may be made by Congress to defray the expenses of the next Legislative Assembly, they may upon the same principle expend the whole and leave the next Legislative Assembly without the means of defraying the necessary expenses of the session. This would be so glaring a perversion of the intention of the act of Congress, that I think the right to do so by this Legislative Assembly cannot for a moment be contended for. I therefore respectfully solicit the attention of the Legislative Assembly to this subject and suggest that a modification may be made in the bill to provide for the payment out of the allowance of the territorial treasury. Or should Congress in their liberality see proper to make an appropriation to pay the excess of expenditures of the present Legislative Assembly over the appropriation heretofore made, a conditional provision might be inserted in the bill to pay these allowances out of such appropriation.

The principles of the bill, making the allowance to the gentlemen therein named, I approve, but return it with the foregoing suggestion, with the hope that it may be modified

so as to secure, in some way, the payment of the sum therein allowed.

Very respectfully, yours, &c.

ROBERT LUCAS.

TO THE COUNCIL

JANUARY 25, 1839

From the Journal of the Council, p. 214

EXECUTIVE DEPARTMENT, I. T. Jan. 25th, 1839.

To the Hon. Council of the Legislative Assembly:

Gentlemen—I have examined the bill submitted for my consideration, (which appears by endorsement to have originated in your house,) entitled "An act to authorize the Legislative Assembly to punish for contempt, and to privilege its members from arrest."

The first section declares, "that each house of the Legislative Assembly shall have authority to punish, by fine and imprisonment, any person, not a member, who shall be guilty of any disrespect, by any disorderly or contemptuous behaviour," &c. and subjects the offender to a fine of two hundred dollars, and forty-eight hours imprisonment.

The second section declares, "that the members of the Council and House of Representatives, shall be privileged from arrest in all cases except *treason*, *felony*, and *a breach of the peace*, during their attendance at the sessions of their respective houses, and in going to and returning from the same; and from being questioned in any other place for any speech or debate in either house."

Inasmuch as no arrest is allowed by the laws of this Territory on civil process, I cannot see the necessity for this provision. It would surely add but little to the dignity of the Legislative Assembly, to exempt the members from arrest, for offences that do not come within the above exceptions—such as gambling, drunkenness, sabbath-breaking, profane swearing, and the various other vicious practices, in violation of municipal laws. My opinion has always been, that those who make laws, should be obedient to them.

I therefore cannot see the necessity, or even the propriety, of permitting members to violate them, by throwing themselves upon their privileges; neither do I think it would be advisable to clothe each branch of the Legislative Assembly with authority to accuse and judge in their own cases, with power to fine and imprison any person, not a member, that they might think had treated them with disrespect or contempt. For surely if a legislative body, or any of its members, should be guilty of conduct that would render them contemptible, in public estimation, it would be wrong to fine and imprison a citizen for speaking the truth about them.

I cannot approve the bill with these provisions, and return it accordingly.

Very respectfully,

Robert Lucas.

TO THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 1839

From the Journal of the House of Representatives, p. 25

EXECUTIVE DEPARTMENT, I. T.
Burlington, Nov. 6, 1839.

To the Honorable House of Representatives of the Legislative Assembly:

Gentlemen:—On the evening of the 25th of January last, after the Legislative Assembly had closed its session, and many of the members left the city; the following described enrolled bills were presented to me for approval, but being objectionable in some of their provisions, the adjournment of the Legislative Assembly, deprived me of the opportunity of making my objections known to that body.

Consequently the bills were filed in the Executive office without my signature, and are now transmitted to the House of Representatives, the branch of the Legislative Assembly in which they originated, in order that such proceedings may be had thereon as may be deemed advisable by the present Legislative Assembly.

The first is a bill entitled "An act concerning the repeal of statutes." The bill if it had been approved, would have repealed all laws of a general nature heretofore passed by the Legislative authorities of Michigan and Wisconsin, and now in force in this Territory, which would have left us without law in many important cases to wit: The law regulating marriages would have been repealed and we would have had no law in force in this Territory on that as well as many other important subjects. The second is a bill

entitled "An act to provide for the compensation of printers of the Legislative Assembly and for other purposes."

On an examination of this act, it appears to be a general appropriation bill, in which are contained some appropriations, that in my opinion, are in contravention of the laws of the United States, and consequently could not receive the approval of the Executive.

The 3d section of the act of Congress making appropriations for the civil and diplomatic expenses of the government for the year 1839, declares "That no officers in any branch of the public service; or any other person, whose salary or whose pay or emoluments is or are fixed by law and regulations, shall receive any extra allowance or compensation in any form whatsoever for the disbursement of public money, or the performance of any other service, unless the said extra allowance or compensation be authorized by law." The objections of the Executive are confined to such allowances as he believes to be in violation of the aforesaid acts of Congress. These suggestions together with the bills, are respectfully submitted to the consideration of the Legislative Assembly. Any special objections are deemed inadvisable at this time, as the bills will consequently be acted upon *de novo* by the Legislative Assembly.

Very respectfully, Your ob't servant,

ROBERT LUCAS.

TO THE HOUSE OF REPRESENTATIVES

DECEMBER 16, 1839

From the Journal of the House of Representatives, p. 110

EXECUTIVE DEPARTMENT, I. T.
BURLINGTON, Dec. 16, 1839.

To the Honorable the House of Representatives of the Legislative Assembly:

Gentlemen:—On the 13th inst. there was presented to me for my consideration a Preamble and Resolution, entitled "Preamble and Resolutions relative to the difficulty between the Territory of Iowa and the State of Missouri."

I have carefully examined this Preamble and Resolutions and being unable to concur with the Legislative Assembly, I herewith return them to the House of Representatives in conformity to amendment of the organic law, with my objections to the same.

The title of the Resolutions relates to the difficulty between the Territory of Iowa and the State of Missouri. I know of no difficulty between the Territory of Iowa and the State of Missouri, neither can the Territory of Iowa as a Territory, be a party to the controversy. The Territorial government being entirely under the control of the United States, the controversy about the southern boundary of the Territory of Iowa, is between the State of Missouri and the general government.

I concur with the Legislative Assembly, in deprecating any collision between the citizens of the United States residing in the Territory of Iowa, and the citizens of Missouri, and also with the belief that the most friendly feelings exist

between the great body of the citizens of Missouri, and those of the United States within this Territory.

I know of no act on the part of the citizens or authorities of the United States within the Territory of Iowa, that has in the least intruded upon the rights of the citizens of Missouri. We have given that State no cause of offense, and I have reason to believe that the great body of the citizens of the State of Missouri, are opposed to the rash proceedings of the authorities of that State in their intrusion upon the citizens of the United States, residing within the organized limits of this Territory, and I am also of opinion that the great body of the people of Iowa Territory, would be unwilling to see a portion of their fellow citizens residing in the southern part of Van Buren county, surrendered to the authority of Clark county, Missouri, to be taxed, and harrassed by them at pleasure, I consider that the citizens of Van Buren county are entitled to the same protection that the citizens of Lee, Henry or Des Moines county are—and I am not aware that there has been any military movements in the Territory of Iowa, further than was required by the Marshal of the United States, to enable him to enforce the laws of the United States and to protect the citizens of the Territory in their constitutional rights.

The organic law of the Territory declares that the laws of Wisconsin should be extended over this Territory, until altered or repealed by the Legislative Assembly, and that the laws of the United States are extended over, and should be enforced in this Territory, so far as the same may be applicable.

The organic law, in defining the duties of the Governor of

the Territory, declares that "he shall take care that the laws be faithfully executed." Van Buren county was organized under the laws of Wisconsin Territory, and the jurisdiction of the United States under the authority of that Territory, was exercised to the Indian boundary line. This jurisdiction was transferred to the Territory of Iowa, at the time of its organization, and has been exclusively and peaceably exercised by her under the authority of the United States, until the recent interruptions from Missouri.

I therefore consider that we are bound by the solemn obligations we have taken, to be careful that the laws be faithfully executed within the boundaries of the Territory of Iowa, as it was transferred to us by the United States at the time of its organization, and that there is no authority in the Territory, neither in the Executive or Legislative Assembly, that can in any way or manner suspend the operations of the laws of the United States within the boundaries of any part of the Territory of Iowa, or to compromise or yield the jurisdiction of the United States in any way or manner whatever, to any part of the Territory over which Wisconsin exercised jurisdiction at the time of the organization of Iowa Territory, until Congress establish a different line.

I therefore, cannot concur in any resolution or act that would make me a party to any transaction that would come in conflict with the solemn obligation I have taken, to take care that the laws of the United States be faithfully executed, which would be the case if I submitted to the requirements of the resolutions herewith returned.

For the information of the Legislative Assembly, I will state, that on the 9th inst. I despatched a special messen-

ger to Washington City, and submitted the whole facts relating to the controversy between the State of Missouri and the United States, relative to the southern boundary of the Territory of Iowa, to the President of the United States, and solicited his interposition and instructions on the subject. So soon as instructions are received from the President of the United States on this affair they will be promptly obeyed by the Executive of the Territory.

Very respectfully, your ob't servant,

ROBERT LUCAS.

TO THE HOUSE OF REPRESENTATIVES

DECEMBER 19, 1839

From the Journal of the House of Representatives, p. 117

EXECUTIVE DEPARTMENT, I. T.
BURLINGTON, Dec. 19, 1839.

To the Honorable the House of Representatives of the Legislative Assembly:

Gentlemen—There was presented to me for my consideration on the 17th inst. a bill entitled "An act to create the office of public printer and to define his duties."

I have carefully examined this act, and approve all its provisions except the clause that provides for the appointment of public printer by joint ballot of both branches of the Legislature of the Territory. I have carefully examined the organic law, and have been unable to reconcile this mode of appointment with any of its provisions. This law being considered as the constitution of the Territory, any appointment made in contravention of its provisions would

be subject to be declared void by the district court on a writ of quo warranto, which might lead to much litigation and embarrassment of the public.

With these suggestions I return the bill without my signature, and respectfully solicit of the Legislative Assembly a calm and dispassionate consideration of the seventh section of the organic law, relative to the mode of appointing "civil officers not therein provided for."

Very respectfully, your ob't servant,

ROBERT LUCAS.

TO THE LEGISLATIVE ASSEMBLY

DECEMBER 20, 1839

From the Journal of the House of Representatives, p. 132

EXECUTIVE DEPARTMENT, I. T.
BURLINGTON, Dec. 20, 1839.

To the Honorable the Legislative Assembly:

Gentlemen:—There was presented to me, on the 20th instant, for my consideration and approval, a bill entitled "An act to provide for the appointment of a librarian, and for other purposes." I have carefully examined this bill and approve of it in all its provisions, except the first section, which provides for the appointment of a librarian by joint ballot of the Council and House of Representatives, that being a mode of appointment entirely unprovided for in the organic law. I am compelled under a conscientious sense of duty, to withhold from the bill my assent on that account, and herewith return it to the House of Representatives without my signature. I have been informed, that

during the discussion of this bill in the House of Representatives, the act establishing the seat of government of this Territory, was referred to as a precedent for this mode of appointing officers. My opinion was expressed to the last legislative assembly on this subject, in communications to the House of Representatives of the 17th and 21st of January last, which will be found in the Journals of that House, (pages 235 and 265,) to which I respectfully invite the attention of the legislative assembly.

The opinion then expressed is still entertained by the Executive, and however unpleasant it may be to differ with the legislative assembly in opinion, he cannot conscientiously yield his assent to any bill that he believes to be contrary in its provisions to the organic law.

Very respectfully, your ob't servant,

ROBERT LUCAS.

TO THE COUNCIL

JULY 27, 1840

From the Journal of the Council, p. 76

EXECUTIVE DEPARTMENT IOWA TER'Y.
BURLINGTON, July 27, 1840.

To the Honorable Council of the Legislative Assembly:

Gentlemen:—I have carefully examined the bill furnished me on the 24th inst. entitled "An Act to repeal the acts therein mentioned," and being unable to approve the same, I herewith return it to the Council with my reasons for disapproval.

The first section declares "that all the Acts of the Territory of Michigan, and the Territory of Wisconsin which are in force in the Territory of Iowa on the 4th day of July in the year one thousand eight hundred and thirty eight, are hereby repealed." The approval of this bill would repeal some of the most important laws now in force in this Territory, particularly the act of Michigan to prevent the exercise of foreign jurisdiction within this Territory—as well as the Wisconsin militia law. The repeal of these two acts would in my opinion be attended with great inconvenience, and indeed injury. The repeal of the first would subject our citizens on the southern border to renewed depredations from the authorities of Missouri without law to punish the aggressors: and the repeal of the latter would disorganize to a great extent, the militia of this Territory: as the militia laws passed by the Legislature of this Territory at its first session can be viewed only as supplement to the Wisconsin acts and does not provide for a general organization.

Further I cannot approve of any general repealing law until we have a complete revision of our laws in this Territory—no benefit in my opinion could result from such repeal—but on the contrary, we might anticipate much inconvenience from the want of laws to bear on many important subjects. The laws of Iowa as far as they go repeal all of those of Michigan and Wisconsin that come in contravention to them.

This is as far as expedience would seem to justify at this time—unless the acts to be repealed should be specifically mentioned by their titles.

Very respectfully Your obt. servant,

Robert Lucas.

SPECIAL MESSAGES

TO THE COUNCIL

NOVEMBER 16, 1838

From the Journal of the Council, p. 36

EXECUTIVE DEPARTMENT, IOWA TERRITORY,
BURLINGTON, NOV. 16, 1838.

To the Honorable the President of the Council of the Legislative Assembly of Iowa:

Sir—I this day received from the Secretary of the Council a communication, containing the following resolution:

"Resolved, That His Excellency Governor Lucas be requested to lay before the Council, any information or instructions, which he may have received from the General Government, concerning public expenditures, so far as they relate to defraying the expenses of the Legislature of Iowa."

In compliance with the foregoing request, I will state that in the 11th section of the Organic Law of the Territory, it is declared that "the members of the Legislative Assembly shall be entitled to receive three dollars each per day, during their attendance at the session thereof; and three dollars for every twenty miles travel, in going to and returning from the said sessions, estimated according to the nearest usually travelled route;" and that "there shall also be appropriated annually a sufficient sum, to be expended by the Secretary of the Territory, and *upon an estimate to be made by the Secretary of the Treasury of the United*

States, to defray the expenses of the Legislative Assembly, the printing of the laws, and other incidental expenses." And the Secretary of the Territory is required annually to account to the Secretary of the Treasury of the United States, for the manner in which the sum appropriated shall have been expended.

In compliance with the foregoing provision of the Organic Law, and no doubt *upon the estimate furnished by the Secretary of the Treasury of the United States*, as required therein, Congress passed an act on the 7th day of July, 1838, to provide for the support of the Military Academy of the United States for the year 1838, and for other purposes, and inserted in the 5th section of this act a clause in the following words: "For salaries of the Governor, Secretary, Chief Judge, Associate Justices, District Attorney, and Marshall, and pay and mileage of the members of the Legislative Assembly of the Territory of Iowa and the expenses thereof, printing of the laws, taking the census, and other incidental and contingent expenses of said Assembly and Territory, twenty-four thousand six hundred and seventy-five dollars."

This appropriation expresses the object for which it was made, and is the only appropriation to which we can look for funds to defray the expenses of the Legislative Assembly, as expressed therein, for the year 1838. You will find this subject referred to in my communication of the 12th inst.

On the 10th of October last, I received a letter from the Register of the Treasury of the United States, requesting that an estimate for expenses of the Legislative Assembly for the year 1839, might be prepared and transmitted to

the Department. A copy of his letter, together with my answer, is annexed, and is as follows:

TREASURY DEPARTMENT, REGISTER'S OFFICE,
September 5, 1838.

Sir—I have the honor to request, that the usual estimate for expenses of Legislative Assembly, for the year 1839, may be prepared and transmitted, for the purpose of being laid (by the Secretary of the Treasury) before the Legislature of the United States at its ensuing session.

I have the honor to be, Sir,
Your most obt. servt.
(Signed) T. L. SMITH, Register.
Governor of Iowa T.

EXECUTIVE DEPARTMENT, IOWA TERRITORY,
BURLINGTON, Oct. 11, 1838.

Sir—Your letter of the 5th Sept. last, requesting me to transmit to the Treasury Department the usual estimates for the expenses of the Legislative Assembly for the year 1839, was received by last night's mail. By the post mark on the letter it appears to have been sent to Madison, Wisconsin Territory. The Seat of Government of Iowa T. is for the present at Burlington, to which place I wish all communications intended for the Executive of the Territory of Iowa to be directed. From some cause (unknown to me) there is an extraordinary delay in the conveyances of letters from the East to this Territory. We frequently receive newspapers before letters mailed at the same office at the same time, and in one instance we received a volume of Statute Laws two weeks before we received the letters that

were mailed at the same time and place, and were doubtless intended to accompany them. This delay in the transmission of letters, I presume must be owing to a mis-direction given to them at some of the distributing post offices. The most direct route from Washington to this place would be by Columbus, Ohio; Terre-Haute, in Indiana, and Peoria in Illinois. But letters that come by St. Louis are frequently received sooner than they are by any other route.

As soon as I can procure the necessary information to enable me to make out a correct estimate of the expenses of the Legislative Assembly for 1839, it shall be forwarded.

The first Legislative Assembly for this Territory will commence in this place on the 2nd Monday of November next.

With sincere respect, I am your obt. servt.

(Signed) Robt. Lucas.

Thos. L. Smith, Esq. Register Treasury U. S.
Washington City.

I have withheld the estimates required by the Treasury Department of the U. S., and shall continue to do so until I can obtain information to enable me to transmit a satisfactory one; and to show therein *the special services and purposes for which appropriations are asked.*

This information cannot be obtained until the action of the present Legislative Assembly are known. Should they agree to authorize the appointment of a committee to prepare during the recess a complete code of laws for the Territory, to be reported to the next session, an item would be included in the estimate to defray expenses of the committee,

and the item for printing enlarged to meet the expenses of printing an entire code of laws, as well as the necessary increased expenses of the Legislative Assembly, estimating the session to extend to the limit of the Organic Law.

But should the Legislative Assembly decline to authorize the appointment of a committee to compile the laws during the recess, the estimates that I shall consider it my duty to transmit to the Treasury Department of the U. S. will only include the usual necessary expenses of an ordinary session of the Legislative Assembly.

Very respectfully, Your obedient servant,

(Signed) ROBERT LUCAS.

TO THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1839

From the Journal of the House of Representatives, p. 181

EXECUTIVE DEPARTMENT, IOWA TERRITORY.

Jan. 5th, 1839.

To the House of Representatives of the Legislative Assembly:

Gentlemen—There has been presented to me for my consideration, a resolution in the following words:

"Resolved, By the Council and House of Representatives of the Territory of Iowa, that his Excellency Governor Lucas, is hereby respectfully requested to inform each House of the Legislative Assembly, of all acts by him approved during the present session, and that he is further requested hereafter to inform the Council or House in which

a bill originated (as the case may be) of his approval, immediately after he has approved of the same.

(Signed) W. H. WALLACE, Speaker H. R.
J. B. BROWNE, Pres't. of Council."

It would at all times do me a pleasure to comply with any respectful request of the Council and House of Representatives, could it be done with some propriety and conscience; but having neither secretary, clerk, messenger, assistant or other attendant, in public employ, at the Executive office, I have to depend upon the voluntary aid of a few private friends, for clerical and such other assistance as is needed in the discharge of indispensible duties.

This being the case, I must respectfully decline a compliance with your respectful request, and most respectfully invite your attention to my communication of the 19th December last. By that communication you will be enabled to perceive that all bills, resolutions, and memorials, that are approved by me, are immediately deposited with the Secretary of the Territory, whose duty it is made by the organic law to record and preserve the same.

If the information required should be deemed of great importance to the Council and House of Representatives, by a call on the Secretary, it can doubtless be obtained. I have, as yet, seen no good reason to change the course of executive proceeding, as pointed out in my communication of the 19th ult., to the Council, relative to bills, resolutions, and memorials, forwarded for my consideration. And until a law shall be passed regulating the intercourse between the Executive and Legislative departments of the government,

embracing the principles alluded to in said communication, I shall adhere to the course there pointed out.

The resolution is herewith returned without my signature.

Respectfully, yours,

ROBERT LUCAS.

TO THE HOUSE OF REPRESENTATIVES

JANUARY 17, 1839

From the Journal of the House of Representatives, p. 234

EXECUTIVE DEPARTMENT, IOWA TERRITORY,
January 17, 1839.

To the Honorable House of Representatives of the Legislative Assembly:

Gentlemen—I have examined the bill submitted for my consideration, entitled "An act to establish the seat of government of the Territory of Iowa, and for other purposes," and concur in its general provisions, particularly those parts that establish the seat of government in the central county of Johnson and provide for the meeting of the Legislative Assembly at Burlington, until public buildings are erected at the seat of government for their accommodation; but I find the bill defective in its details.

It authorizes the commissioners therein provided for, to enter upon the United States land that is yet unsurveyed; to lay out 640 acres in town lots, streets and alleys; to agree upon a plan for the public buildings; to issue proposals; and immediately thereafter to contract for erecting said buildings without delay; but contains no provisions to

obtain the consent of Congress to locate the seat of government on their lands, or to obtain a grant or title from the government, to the land upon which the seat of government may be located.

There is no provision in the bill for the sale or disposition of the lots in the town directed to be laid out at the seat of government, or to dispose of, in any way, the avails of said town; notwithstanding the commissioners are directed to proceed to erect public buildings.

The bill declares that the Governor of the Territory shall officiate as Treasurer, and imposes on him duties, totally incompatible with the duties of the Executive of the Territory.

It provides for the appointment of commissioners by joint ballot of the Council and House of Representatives, which is a mode of appointment entirely unprovided for by the organic law.

With the foregoing exceptions, I approve of the bill, and am willing that this communication may be considered as notice of such approval.

I shall, however, retain the bill in my possession for the present, and should the Legislative Assembly, during its present session, pass an explanatory supplement, remedying the defects above alluded to, the whole subject will meet with my unqualified approval.

Respectfully, your ob't servant,

ROBERT LUCAS.

TO THE HOUSE OF REPRESENTATIVES

JANUARY 21, 1839

From the Journal of the House of Representatives, p. 265

EXECUTIVE DEPARTMENT, IOWA TERRITORY,
January 21, 1839.

To the House of Representatives of the Legislative Assembly:

Gentlemen—I have this day signed the act entitled "an act to locate the seat of government of the Territory of Iowa, and for other purposes"—also the act entitled "an act supplementary to an act to locate the seat of government of the Territory of Iowa and for other purposes," and have deposited both acts with the Secretary of the Territory.

In transmitting to you this information, I consider it my duty to state to you, at the same time, that I have been unable to reconcile with the organic law, the provisions therein that relate to the mode of appointing commissioners, and filling these appointments with members of the Legislative Assembly.

I have been unable to discover any place in the organic law that vests in the Legislative Assembly the right to appoint officers. The 7th section declares "that all township and county officers, except judicial officers, justice of the peace, sheriffs and clerks of courts, shall be elected by the people." Thus securing to the people, the right to elect all officers, (with the above exception) that partake of the character of township or county officers. The section further proceeds to declare, that "the Governor shall nominate, and by and with the advice and consent of the Legislative Council, shall appoint all judicial officers, justice of

the peace, sheriffs, and militia officers, except the staff, and all civil officers not herein provided for."

The 8th section declares "that no member of the Legislative Assembly shall hold, or be appointed to, any office created, or the salary or emoluments of which shall have been increased, whilst he was a member during the time for which he shall have been elected and for one year after the expiration of such term."

If the commissioners created and appointed by these acts, partake of the character of civil officers, both the mode of appointment, and filling these appointments with members of the Legislative Assembly, are in contradiction of the organic law and would be legitimately void. But inasmuch as provision has been made in the act regulating writs of quo warranto, for bringing questions of this character before the judiciary; and considering also that the members of the Legislative Assembly as well as myself, have taken a solemn oath to support the organic law—and approving the bill in other respects—I have waved my objections and signed both the original bill and supplement, under the impression that should the organic law be infringed, the proper remedy may be applied by the judiciary under the quo warranto act.

Very respectfully, Your obedient servant,

ROBERT LUCAS.

TO THE LEGISLATIVE ASSEMBLY

DECEMBER 21, 1839

From the Journal of the House of Representatives, p. 132

EXECUTIVE DEPARTMENT, I. T.
BURLINGTON, Dec. 21, 1839.

To the Honorable the Legislative Assembly:

Gentlemen:—I have received a communication from the Executive of the State of New York, transmitting a copy of a law of that State, relative to the arrest and detention of fugitives from other States and Territories of the United States, which is herewith transmitted for your consideration.

The subject appears to be an important one and deserving your most serious attention.

The original communication is herewith sent to the House of Representatives, with a request that after its consideration in that House, it may be transmitted to the Council.

Very respectfully, your ob't servant,

ROBERT LUCAS.

ACKNOWLEDGMENT OF THE RECEIPT OF ACTS AND RESOLUTIONS OF THE LEGISLATIVE ASSEMBLY

From the Journal of the Council, p. 43

EXECUTIVE DEPARTMENT,
November 25, 1839.

Received of Charles Whittlesey, Esq. member of the legislative assembly, the following bills and memorials, submitted for my consideration, to-wit:

"An act to authorise Vinson H. Wamsley and Barnet Ristine, to erect a dam across the Cedar Fork of Skunk River, &c." also "an Act to authorise the Legislative Assembly to punish for contempt, &c." "memorial of Jeremiah Smith," also "Joint resolution relative to the appointment of Fiscal Agent."

(Signed) ROBERT LUCAS.

From the Journal of the House of Representatives, p. 76

EXECUTIVE DEPARTMENT, I. T.
BURLINGTON, NOV. 29, 1839.

Received of Mr. Brewer member of the H. R., a Joint Resolution relative to Russell & Reeves, Printers of the Laws of last session which was this day submitted for my consideration.

ROBERT LUCAS.

From the Journal of the Council, p. 65

"Received, Dec, 6, 1839, from Charles Whittlesey, Esq. of the Council, "Memorial (No 4) on the subject of the disputed boundary with Missouri," "Joint Resolution (No 5) relative to the distribution of the Acts of the 25th Congress," also an Act (No 7) for the benefit of settlers on the half breed land," filed for consideration.

(Signed) ROBERT LUCAS.

Executive Department, Dec. 6, 1839.

From the Journal of the House of Representatives, p. 105

EXECUTIVE OFFICE, Dec. 13, 1839.

Received of Daniel Brewer, member of the House of Representatives of the Legislative Assembly, "An act for the relief of the administrators of the estate of the late Benjamin W. Clark."

A preamble and joint resolutions relative to the improvement of the Des Moines river;

A preamble and resolutions relative to the difficulty between the Territory of Iowa and the state of Missouri, presented for my consideration and approval.

(Signed.) ROBERT LUCAS.

From the Journal of the House of Representatives, p. 113

EXECUTIVE OFFICE, Dec. 17, 1839.

Received of Daniel Brewer, member of the House of Representatives of the Legislative Assembly, "An act to create the office of public printer, and to define his duties," and "A memorial for a donation of land for literary purposes," presented for my consideration and approval.

(Signed.) ROBERT LUCAS.

From the Journal of the House of Representatives, p. 128

EXECUTIVE DEPARTMENT, I. T.
BURLINGTON, Dec. 20, 1839.

Received of Daniel Brewer, member of the House of Representatives "A memorial to Congress for amending the organic law."

"An act to provide for the appointment of a librarian and for other purposes."

"An act to regulate the institution of suits by foreign executors and administrators within this Territory."

"An act to provide for the organization of the county of Delaware and to locate the seat of justice thereof."

All of which have been this day presented for my consideration and approval.

(Signed) ROBERT LUCAS.

From the Journal of the Council, p. 103

EXECUTIVE DEPARTMENT, December 21, 1839.

Received of Charles Whittlesey, Esq. member of the Council of the Legislative Assembly, C. F. No. 17, "An act to district the county of Henry into three county commissioners districts;" C. F. No. 9, "An act to authorize evidence by the oath of parties;" C. F. No. 12, "An act relative to coroners and their duties;" C. F. No. 2, "Memorial on the subject of an appropriation on the Territorial Road from Du Buque to the northern boundary of Missouri;" also, "Resolution relative to memorials and resolutions passed at the last session;" presented for my consideration and approval.

(Signed) ROBERT LUCAS.

From the Journal of the House of Representatives, p. 131

EXECUTIVE OFFICE, Dec. 23, 1839.

Received of Daniel Brewer, member of the House of Representatives, "A memorial to Congress on the subject of

post roads in Iowa," presented this day for my consideration and approval.

(Signed) ROBERT LUCAS.

From the Journal of the Council, p. 93

EXECUTIVE DEPARTMENT, Dec. 24, 1839.

Received from Mr Hepner of the Council of the Legislative Assembly, "An Act to provide for the appointment of Notaries Public and to prescribe their duties," also, "A memorial to Congress for an additional appropriation for the completion of the Penitentiary," presented for my consideration and approval.

(Signed) ROBERT LUCAS.

From the Journal of the Council, p. 107

EXECUTIVE DEPARTMENT, Dec. 30, 1839.

Received from Mr. Whittlesey, member of the Council, C. F. No. 1, "An act relative to landlords and tenants." "An act to make valid in law the acts of John C. Mather, done and performed by him as County Surveyor of the county of Henry and Territory of Iowa," (Council file, No. 16.) "Joint resolution relative to seals, &c." (C. F. No. 9) ——— filed for consideration and approval.

[Signed.] ROBERT LUCAS.

From the Journal of the House of Representatives, p. 162

EXECUTIVE OFFICE, Dec. 30, 1839.

Received of Daniel Brewer, member of the House of Representatives, "An act to relocate the seat of justice in and for the county of Cedar;" "An act to relocate the seat of justice of the county of Johnson;" "A memorial for the survey of the harbor at the town of DuBuque;" "A memorial to the President of the United States in relation to the Sioux half breed reservation on Lake Pepin;" "A resolution relative to a supervisor to the printing of the laws of the present session," and "A preamble and resolution to the Congress of the United States asking for an appropriation for the improvement of a territorial road on the Des Moines river," this day presented for my consideration and approval. ROBERT LUCAS.

From the Journal of the House of Representatives, p. 165

EXECUTIVE DEPARTMENT, Dec. 30, 1839.

Received of Mr. Walworth, member of the House of Representatives, "An act to establish a seminary of learning, at Parkhurst, in Scott county,' for consideration and approval. ROBERT LUCAS.

From the Journal of the House of Representatives, p. 165

EXECUTIVE DEPARTMENT, I. T. Dec. 31, 1839.

Received of Mr. Walworth, member of the House of Representatives, "A bill to incorporate the Bloomington education society." ROBERT LUCAS.

From the Journal of the Council, p. 113

EXECUTIVE DEPARTMENT, IOWA TERRITORY,
December 31, 1839.

Received of C. Whittlesey, Esqr. member of the Council, the following bills and memorials, viz: "An act to incorporate the Iowa flouring mill and manufacturing company," and a memorial relative to the location by commissioners of Henry county.

[Signed.] ROBERT LUCAS.

From the Journal of the Council, p. 114

EXECUTIVE DEPARTMENT, I. T.
January 1, 1840.

Received from Mr. Whittlesey, member of the Legislative Council, No. 13, C. F. "Resolutions relative to the pay of officers, members, &c." filed for consideration and approval.

(Signed) ROBERT LUCAS.

From the Journal of the House of Representatives, p. 177

EXECUTIVE OFFICE, January 3, 1840.

Received of Daniel Brewer, member of the House of Representatives, "An act to authorize Avery Thomas to keep a ferry across the Mississippi river," opposite Cordova, Illinois.

"An act for the relief of the sheriff of Jackson county."

"An act regulating grocery license."

"An act regulating marriages."

"An act to regulate conveyances."

"An act to provide for the support of illegitimate children," and

"An act to provide for the appointment of a librarian, and for other purposes," this day presented for my consideration and approval.

ROBERT LUCAS.

From the Journal of the House of Representatives, p. 183

EXECUTIVE OFFICE, January 7, 1840.

Received of Daniel Brewer, member of the House of Representatives, "A memorial to Congress for an appropriation for a road opposite Burlington in the Mississippi bottom." "Memorial for the speedy settlement of the Du Buque land claim." "A memorial to Congress for an appropriation to remove obstructions in the rapids of the Mississippi." "Resolutions relative to compensation to J. G. Edwards for printing in pamphlet form the act prescribing the duties of justices of the peace." "An act for the limitation of suits on penal statutes and criminal prosecutions." "An act to incorporate the Philadelphia Mill and Manufacturing company." "An act to encourage the destruction of wolves." "An act providing for the appointment and duties of Auditor of Public Accounts, and regulating the duties of Territorial Treasurer," and "An act to amend an act entitled 'An act to organize the county of Linn and establish the seat of justice thereof,'" this day presented for my consideration and approval.

ROBERT LUCAS.

From the Journal of the Council, p. 135

EXECUTIVE DEPARTMENT, January 8, 1840.

Received from C. Whittlesey, Esqr. member of the Council "an act to regulate Ferries in certain cases," (C. F. No. 22,) "an act to authorize Elijah Buel to keep a Ferry," (C. F. No. 24,) Resolutions relative to printing the Laws, &c. of the present session," (C. F. No. 12,) "Resolution," (C. F. No. 11,) presented for my consideration and approval.

[Signed] ROBERT LUCAS.

From the Journal of the House of Representatives, p. 190

EXECUTIVE OFFICE, Jan. 9th, 1840.

Received of Daniel Brewer, member of the House of Representatives, "An act to amend an act to incorporate the Iowa mutual fire insurance company."

"An act to make valid in law the deed of Si-si-sa-man a minor to John H. Knapp, deceased."

"An act to enable the citizens of Des Moines county to establish the seat of justice for said county."

"An act to authorize the arrest and detention of fugitives from justice, from other states and territories of the United States."

"A preamble and resolution for the benefit of the former sheriffs."

"A joint resolution on the subject of post offices."

"A memorial on the subject of an additional land district in the Territory of Iowa."

"A resolution to defray the expenses incurred by the joint committee appointed to attend the remains of the Hon. Wm. B. Conway, to Davenport—this day presented for my consideration and approval.

ROBERT LUCAS.

From the Journal of the Council, p. 152

EXECUTIVE DEPARTMENT, January 10, 1840.

Received of Mr. Whittlesey, member of the Council, "A bill to locate and establish a Territorial road from Fairfield to Wapello, &c." presented for my consideration.

[Signed] ROBERT LUCAS.

From the Journal of the House of Representatives, p. 200

EXECUTIVE DEPARTMENT, January 10, 1840.

Received from Mr. Walworth, member of the House of Representatives, "An act to provide for the organization of townships." Also, "A resolution requesting our delegate in Congress to use his exertions to procure additional mail facilities on the route leading from Davenport to Du Buque," filed for consideration and approval.

ROBERT LUCAS.

From the Journal of the House of Representatives, p. 202

EXECUTIVE OFFICE, January 11, 1840.

Received of Daniel Brewer, member of the House of Representatives, "An act for the benefit of the sheriff of

Des Moines county," and "An act to organize the county of Clinton and establish the seat of justice thereof." This day presented for my consideration and approval.

ROBERT LUCAS.

From the Journal of the House of Representatives, p. 206

EXECUTIVE OFFICE, January 11, 1840.

Received of Daniel Brewer, member of the House of Representatives:

"An act to incorporate the Tuscarora steam mill company."

"An act for the relief of certain carriers."

"An act to incorporate the Bloomington insurance company."

"An act for the relief of Van Buren county."

"An act to provide for an extra session of the Legislative Assembly."

"A memorial to Congress for an appropriation to improve roads from Iowa city to Prairie Du Chien, and from Du Buque to the county seat of Delaware county."

"Resolution providing for the payment of the rent of the building occupied by the Legislative Assembly."

"A joint resolution requesting our delegate in Congress to urge the passage of a law for a post road," this day presented for my consideration and approval.

ROBERT LUCAS.

From the Journal of the Council, p. 170

EXECUTIVE DEPARTMENT, January 14, 1840.

Received of Charles Whittlesey, Esqr. member of the Council, "resolution relative to the taking of the census," (Council file, No. 14,) "Resolution requesting the appointment of a resident engineer," (Council file, No. 15,) "Memorial to Congress for appropriations to be expended in building bridges and improving roads on the mail routes in this Territory," Council file, No. 6, "An act amendatory to 'an act for assessing and collecting county revenue, approved Jan. 24, 1839.'" (Council file, No. 31,) "An act for the relief of certain officers in the Territory," (Council file, No. 28,) "An act to authorize Adam Ritchie to erect a dam across Crooked creek in Henry county," (Council file, No. 29,) "An act to amend the act providing for the appointment of Justices of the Peace, &c. approved January 21st, 1839," (Council file, No. 33,) presented for consideration and approval.

ROBERT LUCAS.

From the Journal of the House of Representatives, p. 219

EXECUTIVE OFFICE, Jan. 14, 1840.

Received of Daniel Brewer, member of the House of Representatives, "An act to relocate the county seat of Clayton county;" "Memorial to Congress on the subject of a turnpike road from the city of Burlington, via Mount Pleasant, to Fairfield;" "A memorial to Congress for a further appropriation for the road from Burlington to the Des Moines river," Presented for consideration and approval.

ROBERT LUCAS.

From the Journal of the House of Representatives, p. 216

EXECUTIVE OFFICE, January 14, 1840.

Received of Daniel Brewer, member of the House of Representatives,

"An act to incorporate the Bloomington mill and manufacturing company."

"An act to provide for the execution of title deeds to lots in Iowa city, and for other purposes."

"An act establishing certain territorial roads therein named."

"An act to incorporate the town of Salem, in Henry county, ' and

"An act to establish a seminary of learning at or near Antwerp, in Cedar county, ' this day presented for my consideration and approval.

ROBERT LUCAS.

From the Journal of the Council, p. 178

EXECUTIVE DEPARTMENT.
BURLINGTON, I. T. Jan. 16, 1840.

Received from Charles Whittlesey for my consideration and approval, C. F. No. 30, An act relative to the authentication of statutes without the approval of the Governor, and for other purposes; No. 17, Joint Resolution requesting our delegate to Congress to obtain the passage of a law relative to the election of Governor of the Territory by the people; No. 17, A memorial to Congress for an appropriation for a military road from Fort Madison to a contemplated military post on the Des Moines river; No. 4, An act to prevent

frauds; No. 18, Resolution relative to pay for carrying extra mail.

An act for the relief of certain administrators.

An act to amend an act relating to mechanics liens and for other purposes, approved Dec. 17, 1838.

An act for the relief of the poor.

Preamble and memorial to Congress requesting the donation of the sections of land contiguous to the section donated as a location for the seat of government in this Territory.

An act relative to habeas corpus.

An act to provide for the election of Delegate to Congress, Judges of Probate, Sheriffs, County Surveyor, and to amend an act regulating general elections in this Territory.

An act to establish a University in the town of Mount Pleasant in Henry county.

An act to authorize Wm. Ingersoll to build a dam across Skunk river, in Jefferson County.

Memorial to Congress on the subject of a public armory in the Territory of Iowa.

An act to regulate the admission of attorneys.

An act amendatory to an act subjecting real and personal estate to execution, approved Jan. 25, 1839.

ROBERT LUCAS.

From the Journal of the House of Representatives, p. 242

EXECUTIVE OFFICE, Jan. 16, 1840.

Received of Daniel Brewer, member of the House of Representatives:

"An act to punish for trespass on school and other lands."

"Joint resolution approving the views set forth in the late message of the President of the United States."

"An act to locate the seat of justice in and for the county of Jones."

"An act to amend the act fixing the terms of the supreme and district courts of the Territory of Iowa, and for other purposes."

"A resolution relative to the safe keeping of the furniture, &c."

"Resolution relative to publishing the list of acts passed at the present session."

"Memorial to Congress on the subject of expenses incurred by the Marshall in sustaining the laws of the United States within this Territory."

"An act to repeal the acts therein mentioned."

"An act to authorize the keeping of certain ferries therein named."

"Joint resolution relative to the sale of the Statute Laws."

"A resolution relative to publishing the laws of a general nature of the present session in certain newspapers."

"An act to restrict the commissioners in the expenditure of public moneys at Iowa city."

"An act to lay out and establish a Territorial road from Wyoming to Iowa city."

"Resolution relative to an appropriation to defray the expenses of the extra session of the Legislative Assembly."

"A memorial to the Postmaster General."

"A joint resolution relative to a post route."

"An act to incorporate the city of Du Buque."

"An act opening and regulating roads and highways."

"An act to amend an act to provide for the erection of a Penitentiary, and establishing and regulating prison discipline for the same."

And "An act for allowing and confirming the compensation of printers of the last Legislative Assembly, and for other purposes," this day presented for my consideration and approval.

(Signed) ROBERT LUCAS.

Also, "A memorial to the Secretary of War."

"An act relative to divorce, and for other purposes."

"An act amendatory to an act regulating practice."

"An act relating to auctioners and auction sales."

"An act appointing commissioners to review a Territorial road."

"An act to provide for the settlement of the claims that Des Moines county has upon the counties of Lee, &c. &c."

"An act to establish a ferry across the Mississippi river." And

"An act to abolish imprisonment for debt."

From the Journal of the House of Representatives, p. 232

EXECUTIVE OFFICE, January 16, 1840.

Received of Daniel Brewer, member of the House of Representatives, "An act to authorize Robert E. Mott to keep a ferry across the Des Moines river at Round Mound in Lee county."

"An act to authorize Joseph Clinkenbeard to erect a dam across Big Cedar in Jefferson county."

"An act to authorize John Troxell to erect a dam across Big Cedar in Jefferson county."

"An act to authorize William Warner to erect a dam across Big Cedar in Henry county."

"An act to authorize Harriet Knapp to sell and convey the interest of Nathaniel Knapp deceased, in the half-breed-lands in Lee county."

"An act to establish a Territorial road from Bloomington by Point Comfort to the western line of Washington county."

"An act to provide for the annual organization of the Council and House of Representatives of the Territory of Iowa."

"Memorial to Congress for the improvement of the roads therein named."

"An act to establish a system of common schools."

"An act to remove and relocate the county seat of Lee county."

"An act to provide for the compensation of printers, officers," &c.

"A resolution to provide for printing the reports of the decisions of the supreme court."

"A memorial to Congress for an appropriation for a road from Keokuk via West Point to Mount Pleasant;" this day presented for my consideration and approval.

ROBERT LUCAS.

From the Journal of the Council, p. 185

EXECUTIVE DEPARTMENT,
BURLINGTON, Jan. 17, 1840.

Received from Charles Whittlesey, member of the Legislative Council, for my approval and signature, the following acts:

C. F. No. 10, memorial to the Secretary of war.

C. F. No. 38, An act relative to divorces and other purposes.

C. F. No. 47, An act amendatory to an act regulating practice.

C. F. No. 46, An act relating to auctioneers and auction sales.

C. F. No. 32, An act appointing commissioners to review a Territorial road.

C. F. No. 41, An act to provide for the settlement of the claims that Des Moines has upon the counties of Lee, &c.

C. F. No. 40, An act to abolish imprisonment for debt.

C. F. No. 45, An act to establish a ferry across the Mississippi river.

ROBERT LUCAS.

From the Journal of the House of Representatives, p. 235

EXECUTIVE OFFICE, January 17, 1840.

Received of Daniel Brewer, member of the House of Representatives, "An act defining the duties of supervisors of roads and highways," this day presented for my consideration and approval.

ROBERT LUCAS.

PROCLAMATIONS

DIVIDING THE TERRITORY INTO JUDICIAL DISTRICTS

JULY 25, 1838

From the Iowa Sun, Vol. I, Nov. 23, 1838

WHEREAS, by an act of Congress, entitled an act "to divide the Territory of Wisconsin and establish the Territorial government of IOWA," approved on the 12th day of June, 1838, it is enacted and declared, that "temporarily and until otherwise provided by the Legislative Assembly, the Governor of the Territory of Iowa may define the *Judicial Districts*, of said Territory and assign the *Judges* who may be appointed for said Territory, to the several Districts, and also appoint the time for holding *Courts* in the several counties in each District, by proclamation to be issued by him."

And whereas it is also provided, in the act of Congress above cited, that the said Territory of Iowa "shall be divided into three judicial districts, and a district Court, or Courts, shall be held in each of the three Districts, by one of the Judges of the Supreme Court, and whereas the necessity of an immediate compliance with the requirements of the act of Congress aforesaid, as regards the organization of the Territory of Iowa for Judicial purposes, is sufficiently apparent,—therefore,

I, Wm. B. Conway, acting governor of the Territory of Iowa, for the time being, by virtue of the power and authority in me vested by the act of Congress aforesaid do appoint, direct and declare, that temporarily, and until otherwise provided by law of the Legislative Assembly, "the counties in said Territory which have been already organized for Judicial purposes, shall be divided into three districts, as follows:

1. The counties of Clayton, Dubuque, Jackson and Cedar, shall form and constitute the first Judicial District, which is hereby assigned to the Hon. Thomas S. Wilson.

2. The counties of Scott, Musquitine, Louisa, Slaughter & Johnson, shall form and constitute the second Judicial District, which is hereby assigned to the Hon. Joseph Williams.

3. The counties of Lee, Van Buren, Henry and Des Moines, shall form and constitute the third Judicial District; which is hereby assigned to the Hon. Charles Mason, Chief Justice of the Territory of Iowa.

And it is further directed and declared, that the Courts in the several counties of the districts, thus temporarily established shall be held as follows:—

1st district.

In Clayton county, on the 2nd Monday in September next.
Du Buque, 1st Thursday after said second Monday.
Jackson, 4th Monday in September.
Cedar, 1st Monday in October.

2nd district.

In Scott county, 1st Thursday after the 1st Monday in October next.

Musquitine, 2nd Monday in October.
Louisa, 3rd Monday in October.
Slaughter, 4th Monday in October.
Johnson, 1st Thursday, after the 4th Monday in October.

3RD DISTRICT.

In Lee county, 1st Monday in November next.
Van Buren, 2nd Monday in November.
Henry, 3rd Monday in November.
Des Moines, 4th Monday in November.

Given under my hand and seal, at the city of Burlington, this 25th day of July, in the year of our Lord one thousand eight hundred & thirty eight, and of the independence of the United States the sixty-third.

(L. S.)

WM. B. CONWAY.[1]

Acting Governor of the Territory of Iowa.

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[1] NOTE ON WILLIAM B. CONWAY

Having come to the Territory of Iowa some weeks before the arrival of the Governor, (Robert Lucas) William B. Conway, who had been duly appointed Secretary of the Territory, proceeded to perform the duties of Chief Executive. This fact explains the appearance in this connection of several documents signed by Mr. Conway. For an account of the quarrel between the Secretary and the Governor which grew out of this incident see Shambaugh's *History of the Constitutions of Iowa*, Ch. V.—The Editor.

FIXING THE TIME OF ELECTION AND DIVIDING THE TERRITORY INTO ELECTORAL DISTRICTS

[Date of Proclamation not Given]

From Original MS. in the Office of the Sec. of State, Des Moines

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Whereas, by an act of Congress, entitled an Act "to divide the Territory of Wisconsin and establish the Territorial Government of Iowa," approved on the 12th day of June, A. D. 1838—it is enacted and declared that "in case of the death, removal, resignation or necessary absence of the Governor from the Territory (of Iowa aforesaid,) the Secretary shall have and he is hereby authorized and *required* to execute and perform all the powers and duties of the Governor during such vacancy, or necessary absence, or until another Governor shall be duly appointed to fill such vacancy— And whereas it is provided in the act of Congress aforesaid that the first election shall be held at such time and places, and be conducted in such manner as the Governor shall appoint and direct: and he shall at the same time declare the number of members of the Council and House of Representatives to which each of the counties, or districts, are entitled under said act: which said members of the Council and House of Representatives shall reside in and be inhabitants of the district for which they may be elected—And whereas it is also provided, by the Act of Congress aforesaid, that "an apportionment shall be made as nearly as practicable among the several counties for the election of the Council and Representatives, giving to each

section of the Territory representation in the ratio of its population (Indians excepted) as near as may be."

And whereas it is moreover provided by the Act of Congress aforesaid, that "the existing laws of the Territory of Wisconsin shall be extended over the Territory of Iowa for temporary purposes, so far as their provisions may not be incompatible with the organic law of the Territory last mentioned:— And whereas it is provided by the said laws of the Territory of Wisconsin that an election shall be held for sundry county officers on the Second Monday in September, (which will be the 10th day of that month) And whereas it is just and proper that the convenience of the people should be duly consulted in all matters relating to their interests, and requiring their supervision— Therefore, I, *Wm. B. Conway*, Acting Governor of the Territory of Iowa, by virtue of the power and authority in me vested, by the act of Congress aforesaid, do hereby appoint and direct, that an election, for thirteen members of the Legislative Council and twenty six members of the House of Representatives shall be held in the several counties and districts of the Territory of Iowa, on the 2'd Monday in September next; to be conducted, in every respect, pursuant to the provisions of the election laws of the Territory of Wisconsin, and under the following apportionment, towit:—

1 The County of *Lee* shall form and constitute the *first* Legislative district, and elect one member of the Council and four members of the House of Representatives.

2 The County of *Van Buren* and the country lying west of and attached to said county for Judicial purposes shall

form and constitute the *Second* Legislative district, and elect two members of the Council and three members of the House of Representatives.

3 The County of *Henry*, and the country lying west of, and attached to said county for Judicial purposes shall form and constitute the *Third* Legislative District and elect two members of the Council and three members of the H. R.

4 The County of Des Moines shall form and constitute the *fourth* Legislative District and elect three members of the Council and five members of the House of Representatives.

5 The Counties of *Louisa*, *Muscatine*, *Slaughter*, and the country lying west of and attached to Slaughter for Judicial purposes, shall form and constitute the *fifth* Legislative district and elect one member of the Council and four members of the House of Representatives.

6 The Counties of *Johnson*, *Cedar*, *Jones*, *Linn*, *Benton* & *Keokuk*, shall form and constitute the Sixth Legislative district and elect one member of the Council and one member of the House of Representatives.

7 The Counties of *Scott* and *Clinton* shall form and constitute the *seventh* Legislative district and elect one member of the Council and two members of the House of Representatives.

8 The Counties of *Jackson*, *Dubuque*, *Delaware*, *Buchanan Fayette* and *Clayton* shall form and constitute the eighth Legislative District and elect two members of the Council and four members of the House of Representatives.

And whereas it is furthermore provided, by the Act of Congress aforesaid, that a Delagete to the House of Repre-

sentatives of the United States shall be elected by the voters qualified to elect members of the Legislative Assembly, and that the first election shall be held at such time and places and be conducted in such manner as the Governor shall appoint and direct:—And, pursuant to the authority above cited, the undersigned does hereby appoint and direct that the said election for Delagete to Congress, shall be held at the same time and places, at which the election of members of the Legislative Assembly is hereinbefore appointed and directed to be held, and said election shall be conducted according to the existing election laws of the Territory of Wisconsin, so far as the same may not be incompatible with the organic law of the Territory of Iowa.

[Wm. B. Conway]

[It is probable that this document was never formally issued as an official proclamation.—*Editor.*]

ON ELECTION RETURNS

October 18, 1838

From Original MS. in the Office of the Sec. of State, Des Moines

To all to whom these presents shall come Greeting:

Know Ye: That I, Robert Lucas, Governor of the Territory of Iowa, by virtue of the power and authority vested in me by the Act of Congress, passed the 12th day of June, 1838—entitled "An Act to divide the Territory of Wisconsin, and to establish the Territorial Government of Iowa," did declare by Proclamation, the number of members of the Council, and House of Representatives to which

each county and district, in said Territory, were entitled under the provisions of said act of Congress, and did cause elections to be held in the several counties and districts in the said Territory, on the 10th day of September, last past, for members of the Council, and House of Representatives, in the Legislative Assembly; as well as a Delegate to represent this Territory in the House of Representatives of the United States, as provided for, in the 14th section of said Act of Congress: *Do hereby declare* and *make known* that the following named gentlemen were severally elected to the different offices hereinafter specifically designated, as appear by the returns of the elections officially transmitted to this Department, by the proper returning Offices—to-wit:

William W. Chapman, Delegate from this Territory to the House of Representatives of the United States.

Members of the Council

Jesse B. Browne, from the county of Lee.

E. A. M. Swazy and *Isham Keith*, from the County of Van Buren.

Lawson B. Hughes and *Jesse D. Payne*, from the County of Henry.

Arthur Inghram, Robert Ralston & George Hepner, from the County of Des Moines.

James M. Clark, from the Counties of Muscatine, Louisa and Slaughter.

Charles Whittlesey, from the Counties of Johnson, Cedar, Jones and Linn.

Jonathan W. Parker, from the counties of Scott and Clinton.

Warner Lewis and Stephen Hempstead, from the Counties of Jackson, Dubuque and Clayton.

Members of the House of Representatives.

William Patterson, Hawkins Taylor, Calvin J. Price and James Brierly—from the County of Lee.

James Hall, Gideon S. Bailey and Samuel Parker, from the county of Van Buren.

Wm. G. Coop, William H. Wallace and A. B. Porter from the county of Henry.

James W. Grimes, George Temple, Van B. Delashmutt, Thos. Blair and Cyrus S. Jacobs from the county of Des Moines.

John Frierson, William L. Tool, Levi Thornton and S. C. Hastings from the Counties of Muscatine, Louisa and Slaughter.

Robert G. Roberts, from the Counties of Cedar, Jones, Linn and Johnson.

Laurel Summers and Samuel R. Murry from the Counties of Scott and Clinton.

Chauncey Swan, Andrew Bankson, Thos. Cox and Hardin Nowlin from the Counties of Jackson, Dubuque and Clayton.

And I do, by virtue of the further power and authority vested in me, by the Act of Congress aforesaid, declare and make known, that I have appointed the Second Monday of November next as the time, and the city of Burlington as the place, for the first meeting of the Legislative Assembly, and do hereby request the members elected to the Council, and House of Representatives as aforesaid, to assemble at the City of Burlington, in the County of Des Moines, on

the Second Monday of November next, for the purpose of organizing the first session, of the Legislative Assembly, of the Territory of Iowa; under the Act of Congress of the 12th of June, 1838, as aforesaid.

In testimony whereof, I have hereunto set my name, and caused the seal of the Territory, to be hereunto affixed. Done at the City of Bur-
(SEAL) lington, in the Territory of Iowa, this eighteenth day of October, in the year of our Lord, One Thousand eight hundred and thirty eight, and of the Independence of the United States, the sixty third.

ROBERT LUCAS.

LOCATING A COUNTY SEAT

MARCH 18, 1839

From Original MS. in the Office of the Sec. of State, Des Moines

To all whom it may concern:

Know Ye, that having received a Certificate under the hand and seals of a majority of the Commissioners appointed in the Act entitled "An Act to organize the County of Linn and to establish the seat of justice thereof." Approved the 15th day of January 1839 in the words following, to wit—

In pursuance of an Act of the Council and House of Representatives of the Territory of Iowa. Approved January 15th 1839. Entitled an Act to organize the County of Linn and establish the seat of justice thereof

We the undersigned two of the Commissioners appointed by the aforesaid Act to locate the seat of justice of said County of Linn having met at the house of William Abbey in said County on the first Monday of March inst. and being duly sworn according to law proceeded to locate said seat of justice by driving a stake to be considered the center of said location to agree with the four cardinal points in an open rolling prairie about one hundred rods east of the east fork of Indian Creek and eighty rods north of the grove of timber designated as Red Cedar timber and in a direct line about equal distance between a house said to belong to Doctor James Nall and a small grove of timber called Quakanarp grove having the east branch of Indian creed on the west, an extensive grove of timber on the south, a small branch with two large springs on the east and an open prairie on the north and supposed to be about three miles south of the geographical center of said county and done in the presence of a large number of witnesses

We hereby certify the foregoing to be a true description of the site on which we have located the said seat of justice of the county of Linn and Territory of Iowa

Given under our hands & seals this eighth day of March A. D. 1839.

(Signed) Benjamin Nye, (Seal)
Richard Knott, (Seal)
Commissioners.

Therefore I, Robert Lucas Governor of the Territory of Iowa, do, in pursuance of the provisions of the Act aforesaid hereby proclaim, affirm and declare the said location as specified and described in the report of a majority of the

commissioners aforesaid to be the seat of justice of said county of Linn

In testimony whereof I have hereunto subscribed my name and caused the great seal of the Territory to be hereunto affixed

(SEAL) Done at the City of Burlington the eighteenth day of March A. D. 1839 and of the Independence of the U. S. of America the sixty-third.

ROBERT LUCAS.

ON THE SOUTHERN BOUNDARY OF THE TERRITORY OF IOWA

JULY 29, 1839

From Original Copy in the Office of the Sec. of State, Des Moines

Whereas, it has been officially communicated to the Executive Department of the Territory of Iowa, by the county commissioners of Van Buren county, in said Territory, that certain individuals, under pretence of authority derived from the State of Missouri, have recently been assessing the property of citizens of the United States residing within the authorized limits of said county of Van Buren, in the Territory of Iowa, with a view to enforce the collection of taxes from them under pretended authority of the State of Missouri, and thereby obtain a surreptitious jurisdiction over a portion of the citizens of the United States residing in the said county of Van Buren, and within the rightful jurisdiction and organized limits of the Territory of Iowa, as organized by the act of Congress "To divide the Territory of

Wisconsin and establish the Territorial Government of Iowa," approved 12th of June, 1838: And whereas, an act originally passed by the Legislative Council of Michigan, approved the 12th of February, 1835, was adopted as a law of Wisconsin, previous to the division of the Territory, and by the 12th section of the organic act of Congress declared to be in full force and effect in the Territory of Iowa, entitled "An act to prevent the exercise of a foreign jurisdiction within the limits of the Territory."

"Sec. 1. Be it enacted &c. that if any person shall exercise or attempt to exercise any official functions, or shall officiate in any office or situation within any part of the present jurisdiction of this Territory, or within the limits of any of the counties therein, as at this time organized by virtue of any commission or authority not derived from this Territory or under the laws of this Territory, or under the government of the United States; every person so offending shall, for every such offence, on conviction thereof before any court of record be punished by a fine not exceeding one thousand dollars, or imprisoned at hard labor not exceeding five years, or both, at the discretion of the court.

"Sec. 2. Be it &c. That if any person residing within the limit of this Territory, shall accept of any office or trust from any State, or authority other than the government of the United States, or this Territory, every person so offending shall be fined not exceeding one thousand dollars, or imprisoned five years, at the discretion of the court."

And whereas, it is declared by the Organic Law to be the duty of the Executive "to take care that the laws be faithfully executed," I, therefore, in discharge of the duty

imposed upon me by the Constitution and laws of the United States, as well as the laws of this Territory, do hereby proclaim the "Act to prevent the exercise of a foreign jurisdiction within the limits of this Territory" as aforesaid, to be in full force and effect, within the organized boundary of the Territory of Iowa; and admonish all persons, upon their peril, to desist from exercising or attempting to exercise any official function, or from officiating or attempting to officiate, in any office, or situation whatsoever, within any part of the jurisdiction of this Territory, or within any of the counties therein as at present organized, by virtue of any commission or authority not derived from this Territory, or under the laws of this Territory, or under the Government of the United States. And I do likewise admonish all persons residing within the limits of this Territory, to desist from the acceptance of any office or trust from any State, or authority, other than the government of the United States or the Territory of Iowa. And I do hereby enjoin upon the District Attorney of the United States, the District Prosecutor of the first judicial district of the Territory, all sheriffs, constables, justices of the peace, and other peace officers, within the several counties in this Territory, bordering on the State of Missouri, to be vigilant, in protecting the inhabitants of the Territory, in all their rights, against foreign encroachments, and to be careful that the laws of the United States, and the laws of this Territory be respected, and faithfully executed within the present organized boundaries of the Territory; and that through the instrumentality of regular judicial process, they cause all persons, that may be found within the Territory of Iowa,

violating, or attempting to violate any of the provisions of the Act as aforesaid ("to prevent the exercise of a foreign jurisdiction within the limits of this Territory") to be arrested and brought before the proper judicial tribunal within this Territory, to be dealt with according to law. And I do most earnestly exhort all officers and citizens to be prompt and vigilant in the discharge of their various duties, but at the same time to be circumspect in all their actions, and under no circumstance to permit themselves to become the aggressors, or to act against the citizens or authorities of Missouri, without the aid of civil process, duly obtained from the proper judicial tribunals of this Territory, of the United States; and in all cases to act in strict obedience to the command of such civil process—for in whatever form an encroachment may be made on the jurisdiction of the United States, in this Territory the only proper mode of restraining and correcting it is through the instrumentality of judicial tribunals. And it seems to me that we would be doing injustice to the enlightened discretion of the public authorities of the State of Missouri, to suppose that they would persist in their attempts to exercise jurisdiction within the present organized boundaries of Iowa, while Congress has the boundary question before them, and will, in all probability, settle it definitely at their next session. Should we however be disappointed in our expectations, as to the pacific disposition of the public authorities of Missouri, and they attempt to enforce an exercise of jurisdiction within any part of the present organized boundaries of our Territory, there is but one path of duty pointed out to us—and that is, to maintain the jurisdiction of the

United States over the full extent of this Territory, as it was transferred to us by the United States at its organization, and to resist by the potent arm of the civil authority, every encroachment, upon our jurisdiction, until the boundary lines be definitely settled by Congress, or altered by the authority of the United States. This duty cannot be dispensed with by the civil authority of the Territory of Iowa, and the attention of all who may be required to act in the premises, are solicited to the following suggestion from such acts of Congress as may be brought to bear on the subject. The Act of Congress for the punishment of certain crimes against the United States, provides "That if any person or persons shall knowingly and wilfully, obstruct, resist or oppose any officer of the United States in serving or attempting to serve or execute any mesne process or warrant, or any rule or order of any of the Courts of the United States, or any other legal or judicial writ or process whatsoever, or shall assault, beat or wound any officer, or other person duly authorized in serving or executing any writ, rule, order, process or warrant aforesaid, every person so knowingly and wilfully offending in the premises, shall on conviction thereof be imprisoned not exceeding twelve months, and fined not exceeding three hundred dollars."— The obstruction by unarmed individuals, either singly, or in numbers, of the process and orders issued and made by the officers of Iowa, would probably be reached by this law. An attempt by a military force actually embodied to suppress the jurisdiction of the Territorial officer acting as they do under the laws of the United States, within the present organized boundaries of the Territory of Iowa, would

expose the parties concerned to criminal prosecutions of a still more serious character.

The laws of the United States also provides, that where the civil power is obstructed by combinations too powerful to be resisted by the ordinary civil authority, the evidence of the fact shall be laid before the President, and if he deems it sufficient, a Proclamation shall issue, and such measures may be adopted as he may deem expedient, to enforce an execution of the laws of the United States, and to maintain the integrity of the Constitution.

If therefore the servers of civil process should be resisted by an armed force, or combination too powerful to be resisted by the ordinary civil authority, the sheriff, constable or other officer, who may have the civil process in possession at the time of such resistance, are required to take written evidence of the facts as they relate to such resistance, and report the same to this department, to be transmitted to the President of the United States for his consideration and instructions.

In testimony whereof, I, Robert Lucas, Governor of the Territory of Iowa, have hereunto set my name, and caused the Seal of the Territory to be hereunto affixed.

(L. S.) Done at the City of Burlington, in the Territory of Iowa, this twenty-ninth day of July, in the year of our Lord one thousand eight hundred and thirty-nine, and of the Independence of the United States of America, the sixty-fourth.

ROBERT LUCAS.

ON THE SOUTHERN BOUNDARY OF THE TERRITORY OF IOWA

SEPTEMBER 25, 1839

From Original Copy in the Office of the Sec. of State, Des Moines

Whereas, a document has recently appeared in the public prints bearing the name of the Governor of the State of Missouri, and purporting to be a proclamation issued by him under the seal of the said State, and bearing date the 23d day of August, 1839,[1] in which document the Governor of Missouri after taking a superficial view of my Proclamation of the 29th of July last, enters into a laboured effort to impress upon the public mind the belief, that the public authorities of the Territory of Iowa are attempting an encroachment upon the jurisdiction of the State of Missouri, and are desirous of extending their jurisdiction within the rightful boundaries of that State: with a view to remove erroneous impressions by placing the facts before the citizens of the United States as they really exist, I have deemed it my duty to enter into a public examination of the Proclamation of the Governor of Missouri, and to present to the consideration of the citizens of the United States, such facts as must convince every unprejudiced mind that it is the State of Missouri that is aiming at an extension of jurisdiction, and that the authorities of the Territory of Iowa are only exercising jurisdiction to the line that has, from the organization of the State of Missouri till within a very recent period, been acknowledged by that state as her northern boundary

[1] For Governor Boggs' Proclamation see above page 124.

line; and which line has been regarded by sundry acts of Congress and Indian treaties, as the northern boundary of Missouri, and to which line, the Territory of Wisconsin, previous to the division of the Territory, and subsequently the Territory of Iowa, have always, under the authority of the United States, exercised an uncontrolled jurisdiction.

In taking a view of the subject, I deem it improper to enter into a general discussion of the boundary question, as that is a matter that rests entirely between the United States and the State of Missouri. By the 4th article of the constitution of the United States, Congress has the power to dispose of and make all needful rules and regulations respecting the Territory, and other property of the United States. On the 18th of June, 1838, Congress passed "An act to authorize the President of the United States to cause the southern boundary line of the Territory of Iowa to be ascertained and marked."—Commissioners were appointed under the provisions of this act, (Missouri declining on her part to appoint a commissioner) and have made report to Congress on the subject, which report now awaits the final decision of that body, who, alone, has the constitutional right to decide the question, and to settle definitely the southern boundary of this Territory. With its decision the authorities of Iowa will be satisfied; but until this decision is made, the Territory of Iowa, acting under the authority of the United States, can acknowledge no other boundary line than the one to which the jurisdiction of the United States, though their Territorial officers, has ever been exercised, from the time the country west the Mississippi river and north of the state of Missouri, were by an act of Con-

gress attached to the Territory of Michigan for judicial purposes, until the present time.

I will now examine the claims of Missouri as set forth by the Governor in his proclamation, and compare them with sundry official documents, and appeal to the calm tribunal of public opinion to determine whether it is not the State of Missouri that is attempting an encroachment upon the Territory of the United States, rather than the United States, through their Territorial authorities, upon the rights of that State.

The Governor of Missouri after a BOLD assertion, "that the Territory of Iowa is now seeking to extend an unwarrantable and unauthorized jurisdiction over a portion of territory, which, by the term of admission of the State of Missouri into the confederacy, has been, and still is, subject to the authority of that State," proceeds as follows, to wit:

"Whereas, by an act of the Congress of the United States, entitled "an act to authorise the people of the Missouri Territory to form a Constitution and State Government, and for the admission of such State into the Union, on an equal footing with the original States, and to prohibit slavery in certain territories," approved March 6, 1820, the territory of the State of Missouri has been set forth, prescribed, and forever ceded by the United States to said State as the same is declared to be included within the following boundaries to wit:—"Beginning in the middle of the Mississippi river on the parallel of thirty-six degrees of north latitude; thence west along that parallel of latitude to the St. Francois river; thence up and following the course of that river in the middle of the main channel thereof to the

parallel of latitude of thirty-six degrees and thirty minutes, thence west along the same to a point where the said parallel is intersected by a meridian line passing through the middle of the mouth of the Kansas river, where the same empties into the Missouri river; thence from the point aforesaid north along the said meridian line to the intersection of the parallel of latitude which passes through the rapids of the river Des Moines, making the said line to correspond with the Indian boundary line; thence east from the point of intersection last aforesaid, along the said parallel of latitude, to the middle of the main channel of the main fork of the said river Des Moines to the mouth of the same, where it empties into the Mississippi river; thence due east to the middle of the main channel of the Mississippi river; then down and following the course of the Mississippi river in the middle of the main channel thereof to the place of beginning"—"which said boundaries have been ratified by and incorporated into the constitution of this State." To the foregoing quotation we have no objection; it is a description of the boundaries of the state of Missouri, as defined in the constitution of that State, (with the omission of the following words which are found in the constitution, after the words "channel of the main fork of the said river Des Moines," viz: "Thence down and along the middle of the main channel of the said river Des Moines.") But to the construction given to it by the Governor of Missouri, and the conclusion drawn by him as to the right of Missouri to construe it to suit her own convenience, and to extend her boundary into the Territory of the United States without the assent of the General Government, as well as her gra-

tuitous assertions "that the Territory of Iowa is now seeking to extend an unwarranted and unauthorized jurisdiction," I do entirely and unequivocally dissent; and I think neither the Governor of Missouri nor any other public functionary in that State, will seriously assert, that Missouri ever claimed jurisdiction north of the line commonly known as Sullivan's line until 1837, or that they even attempted to exercise jurisdiction north of that line until their late surreptitious attempt under the Missouri act of the 16th February, 1839, by assessing the property of citizens of the United States residing north of said line, and of which notice was taken in my proclamation of the 29th July last.

The act of Congress of the 6th of March, 1820, and the constitution of the State of Missouri, adopted in conformity to said act, both, in defining the boundaries of the state, declare that the State of Missouri shall be bounded west "by a meridian line passing through the middle of the mouth of the Kansas river, where the same empties into the Missouri river, thence from the point aforesaid north along the said meridian line to the intersection of the parallel of latitude which passes through the rapids of the river Des Moines, making said line to correspond with the Indian boundary line; thence east from the point of intersection last aforesaid, along the said parallel of latitude to the middle of the main channel of the main fork of the said river Des Moines, thence down along the middle of the main channel of the said river Des Moines, to the mouth of the same, where it empties into the Mississippi river; thence down and following the course of the Mississippi river in the main channel thereof to the place of beginning." Thus we see that the

State of Missouri is bounded west by a meridian line passage through the middle of the mouth of Kansas river, thence north along the said meridian line to the intersection of the parallel of latitude which passes through the rapids of the river Des Moines, making said line to correspond with the Indian boundary line. Enquiry may be made as to the legal meaning of the word correspond. If we consult Mr. Webster, who is generally admitted to be good authority, we find its meaning defined as follows, to wit: "To suit; to answer; to agree; to fit; to be congruous; to be adapted to." If we give the word correspond either of the foregoing definitions, the conclusion must be drawn that it was used as a qualifying expression, and intended to control the parallel of latitude that was to form the northern boundary of Missouri. The term "passing through the rapids of the river Des Moines" is indefinite, and without a fixed point. The western line being a meridian line passing through the mouth of Kansas river, was definitely fixed at that point; and in running north with said meridian line would vary neither east or west, but was governed in its extension north by a correspondence with the Indian boundary line, and an intersection of the parallel of latitude passing through the rapids of the river Des Moines.

The inquiry may here arise as to the locality of the line known at the time of the passage of the act of Congress, and the adoption of the constitution of the State of Missouri, as the Indian boundary line. By reference to the history of that period it appears that in 1816, some years before the admission of the State of Missouri, into the Union, Mr. Sullivan, under the direction of the Surveyor

General of Missouri, Gen. William Rector, ran the line that has been always, since that period, known as Sullivan's line, or the Old Indian boundary line. This line commenced at the mouth of the Kansas river, and ran with the meridian line north one hundred miles, from the mouth of that river, and ran from thence east to the river Des Moines. From some cause—probably an omission to adjust the compass, while running the line—the line run by Mr. Sullivan has been found to strike the Des Moines river several miles north of a due east line run from the termination of the Indian boundary one hundred miles north of Kansas river. The line, however, known as Sullivan's line, has been acknowledged by the authorities of Missouri and the United States as the northern boundary of the State of Missouri; and if the Governor of Missouri will turn his attention to the map of his own State, published by Brown & Barcroft a few years after the admission of Missouri into the Union, and while all the localities of the places referred to in the act of Congress and constitution of Missouri were properly understood, he will find that Sullivan's line is laid down as bounding the State of Missouri west and north—that the north west corner of the State is placed one hundred miles north of the mouth of Kansas river, and from thence the line is run east to the river Des Moines and down the same to the Mississippi river—that there is no place marked on the map as rapids in the Des Moines river, but that the rapids in the Mississippi above the mouth of the Des Moines river, are marked on said map as "rapids Des Moines." This location of the rapids, called in the constitution of Missouri "Rapids of the river Des Moines," corresponds with the

opinion of the late Gov. Clark of Missouri, as expressed in an official letter written by him to the commissioner of Indian Affairs, dated January 13, 1838. In this letter Gen. Clark says:—"In the year 1816, (I think it was,) Col. John C. Sullivan was employed by the United States Surveyor General, William Rector, to run, and did run and mark the line which has since been marked in most if not all maps as the western and northern boundaries of the State of Missouri, commencing at the mouth of the Kansas river and running one hundred miles, and thence east to the Des Moines river. The language in the first article of the constitution expressly refers to so much of the line as runs north one hundred miles from the mouth of the Kansas river, and the impression was very generally prevalent, after the adoption of the State constitution, that the survey of Col. Sullivan was not only a part of the western, but that the northern line of the state, and in fact that both were synonymous with the Indian boundary line." Gov. Clark further states, that "as early as the year 1824, four years after the constitution was formed, and when the subject of boundary was still fresh in recollection, treaties were made with the Ioways and Sacs and Foxes, in which the north-west corner of the state is expressly referred to, and in one of them Col. Sullivan's survey is mentioned. In 1825 the treaty with the Kansas again refers to the north-west corner of the State, and as late as 1830 the same term is used in the treaty made with the various tribes at Prairie du Chien." The foregoing treaties referred to by Gen. Clark, as well as several subsequent ones concluded with various tribes of Indians, to wit: the treaty concluded by Gen. Scott for the

purchase of the present surveyed part of Iowa Territory, refers to the northern boundary of the State of Missouri; so does the treaty concluded with the Sac and Fox Indians at Washington, in 1837; also all the treaties concluded with various tribes of Indians for the purchase of the land lying between the west line of the State of Missouri and the Missouri river, refer to the north-west corner of Missouri, and some of them fix, this corner one hundred miles north of the Kansas river

The line known as Sullivan's line has been recognized as the boundary between the Surveyor General's district of Missouri, and Illinois, and the Surveyor General's district of Ohio, Indiana, Michigan and Wisconsin. All the surveys of the public lands have been governed by that line, and it has been referred to in all the acts of Congress creating land districts, both in Missouri and Iowa, bordering on said lines; and the land over which the authorities of Missouri now wish to exercise jurisdiction was surveyed under the direction of the Surveyor General at Cincinnati, Ohio, as lying within the boundary of Wisconsin, and returned to the Register of the Land Office at Burlington, Iowa Territory, and by proclamation of the President of the United States, was sold at that place as lying within the Territory of Iowa; and the citizens of the United States over which the authorities of Missouri now wish to exercise jurisdiction, and to levy taxes upon them, purchased the lands on which they live from the United States as lying within the Territory of Iowa, and settled upon them as such.

The line that has universally been known as Sullivan's or

the Indian boundary line, and which has been recognized by all the authorities as above cited, is the line to which the Territory of Iowa, acting under the authority of the United States, has heretofore exercised uninterrupted jurisdiction, and it is the line to which it intends to exercise jurisdiction until Congress declares some other line to be the boundary of the Territory.—We have never pretended to exercise or claim jurisdiction south of that line, neither do we desire to do so until the question of boundary is definitely settled by Congress.

With the foregoing incontrovertible facts, presented to the calm consideration of the citizens of the United States, we submit our cause to their decision and ask them to judge between the authorities of Iowa and those of Missouri, and determine, from the facts in the case, how far the Governor of Missouri has been sustained in his assertion, that the Territory of Iowa is now "seeking to extend an unwarranted and unauthorized jurisdiction over a portion of Missouri—whether this assertion has any foundation in truth or reason and whether it is not, on the contrary, the authorities of Missouri that are now seeking to extend an unwarranted and unauthorized jurisdiction over a portion of the citizens of the United States residing in the Territory of Iowa.

The Governor of Missouri, after proclaiming the law of that State, approved Feb. 16, 1839, which appears to have passed in defiance of the act of Congress of the 18th of June, 1838, authorizing the President of the United States to cause the southern boundary line of the Territory of Iowa to be ascertained and marked, and after the commis-

sioners appointed under authority of the United States had made their report to Congress, assumes this Missouri law to be of supreme authority—claims the line run by the Missouri commissioners, in 1837, without the consent of the United States, as the boundary—and with an air of authority commands all officers in the State of Missouri, civil and military, to hold themselves in readiness to enforce the laws of Missouri, over the Territory of the United States thus vaguely claimed by that State. We, as citizens of the United States residing in the Territory of Iowa, and under the authority of the United States, consider vague all the authority, pretentions and claims of Missouri, of every character and description, to extend her jurisdiction north of the line known as the Indian boundary line, and to which special reference is made in the constitution of that State. We deny the right of the legislature of any State to extend their boundaries into the Territory of the United States, without the consent of Congress. We deny to the State of Missouri the right to exercise jurisdiction of any kind north of said line. We deny the right of any foreign government to tax the citizens of the United States residing within the organized boundaries of the Territory of Iowa, or any other interference with their rights, and consequently shall disregard any authority, or pretended authority or claim of the State of Missouri, to exercise jurisdiction within any part of the Territory of Iowa, as the same was transferred to us by the United States at the time of our organization, and over which we have exercised an uncontrolled jurisdiction. We shall view all acts that may be done by the authorities of Missouri, or by individuals under

pretence of authority derived from that State, (north of said line,) as having been done without any authority, and in violation of the laws of the Territory and those of the United States, and subject to be prosecuted accordingly. Should the authorities of Missouri, in their attempt to collect taxes from the citizens of the United States within this Territory, trespass upon them, they will be liable to an action for damages. Should they forcibly take and carry away the property of any of our citizens, they will be liable, under the laws of the Territory, to be indicted for robbery, as well as an indictment under the law to prevent the exercise of a foreign jurisdiction within this Territory; and should they march with an armed force, as indicated in the proclamation of the Governor of Missouri, and invade our Territory, they may ultimately find to their regret, that it is not the infant Territory of Iowa that they are warring against, but that by such overt act they have levied war against the United States, and by invading the Territory of the United States with an armed force they have subjected themselves to all the consequences of such acts of temerity.

The Governor of Missouri, in the concluding paragraph of his proclamation, states, that "in thus fulfilling the duty imposed upon him by the constitution and laws of the State, which are so ordered that no right exists which enables the Executive to interpose its power, in order to arrest or even delay the progress of the civil authority, until such time as the causes of the present difficulty may be removed, and that no alternative is left but to carry the laws of that State into full and complete execution." What is to be understood by the foregoing sentence? Does the Governor of Missouri

wish to be understood as regretting the existence of the law that gave him no power to interpose the Executive authority to delay its progress until such time as the causes of the present difficulty may be removed? If so, why the passage of the Missouri act of the 16th February, 1839, in the face of the act of Congress, and after the commissioners had submitting their report? If the Governor was individually anxious to avoid difficulty, why approve the act of Missouri, that is the very cause of all the difficulty? Why the military attitude assumed by Missouri, if there was not a disposition on her part to create a difficulty? Who has originated the cause of the present difficulty as referred to by the Governor; and who is pressing it on to the disturbance of the public peace?—An enlightened community will answer these queries.

The Governor of Missouri further says, that he "must at the same time express his extreme regret, that the peaceful and kind interchange of friendly feelings between the citizens of Missouri and the citizens of the United States residing within the Territory of Iowa, is likely soon to be harshly suspended, and that a violent severance is about to be applied to ties that should bind a people whose language, habits, pursuits and principles are the same, and whose mutual interests prompt them to be neighbors in sentiment as well as locality." None regrets this state of things more than the citizens of the United States residing in the Territory of Iowa; but who, let me ask, has been the cause of all this difficulty? Who is about to cause this harsh suspension of friendly feelings—this violent severance of ties that should bind us together as neighbors? Has it been caused

by any of the authorities of the Territory of Iowa or the citizens of the United States residing within the Territory? Certainly not. The authorities of the Territory, and those of the United States within the same, nor any of the citizens residing therein, have never interfered with the authorities or citizens of Missouri within the ceded and constitutional boundaries of that State, neither do they intend to do so; but they have exercised jurisdiction over the Territory transferred to them by the United States at the organization of the Territorial government, and intend, (as before observed,) to continue to do so, the menaces and threats of the authorities of Missouri to the contrary notwithstanding. And if the friendly feelings between the citizens of Missouri and those of the United States residing in the Territory of Iowa should be forever severed, and instead of friends and brothers, we should be compelled, by the intrusions of Missouri upon our rights, to view them henceforth as aliens in feeling and enemies in practice, and thereby be induced to withdraw our confidence from the citizens and authorities of that State, and bestow it upon our neighbors on the east of the Mississippi, with whom our institutions, habits, and commercial interests are ultimately connected, such a state of things, will be the natural results, of the Missouri policy. I repeat it, if the unjustifiable course of Missouri, in her attempt to tax our citizens, and to enforce the collection of taxes from them, be persevered in, and the citizens of the United States within this Territory be compelled thereby to withdraw their confidence from the citizens and authorities of that State, both social and commercial, and bestow it upon their neighbors on the eastern side of the Mississippi,

the sin will be with the politicians of Missouri—it will be because they would have it so, and with the authorities of that State must rest the consequences.

The Governor of Missouri, in conclusion, states, that "in declaring his individual feelings on this subject, which he has every reason to believe are felt generally by the citizens of that state, he entertains a hope that the enlightened authorities of the Territory of Iowa will permit to be offered no obstruction to the peaceable and quiet administration of the laws of Missouri, within the ceded and constitutional limits of that State." I can here assure the Governor of Missouri, that the authorities of the Territory of Iowa never have offered any obstruction to the peaceable and quiet administration of the laws of Missouri within the "ceded and constitutional limits" of that State; neither do they intend to offer any such obstruction, neither do they wish to interfere with the officers or citizens of Missouri, either directly or indirectly, within her ceded and constitutional limits; but, (I repeat the declaration,) they do intend to exercise jurisdiction within the ceded and constitutional limits of the Territory of Iowa, and to oppose the strong arm of the civil authority against all who may attempt an encroachment upon their rights within the same. And if the Governor of Missouri will restrain the authorities of that State from encroaching upon the rights of the citizens of the United States, within the ceded and constitutional limits of this Territory, we will assure him that the authorities of the Territory of Iowa will not pass over the generally acknowledged line to interfere with the institutions of Missouri, the rights of her citizens, or the peaceable exercise of its legitimate and constitutional authority.

Whereas, it appears by the proclamation of the Governor of the State of Missouri, that our anticipations relative to the pacific disposition of the authorities of that State have not been realized, but that her authorities, both civil and military, have been called upon, by proclamation of the Governor, to hold themselves in readiness to enforce the jurisdiction of that State over a portion of the citizens of the United States residing within the ceded and acknowledged boundary of this Territory; And whereas it becomes our duty to maintain the jurisdiction of the United States over all the Territory acknowledged at the time of its organization to be included within the boundaries of the Territory of Iowa, until other boundaries are fixed by the Congress of the United States—I, therefore, ROBERT LUCAS, Governor of the Territory of Iowa, do hereby specially call the attention of the District Attorney and Marshal of the United States to this subject, as the ministerial officers of the laws of the United States within this Territory, and the legitimate guardians of the people's rights under them; and respectfully direct, that they exercise a vigilant promptness in causing the laws of the United States to be respected and enforced within the organized limits of the Territory of Iowa; and that they cause all offenders against the laws of the United States within this Territory to be prosecuted, arrested and brought to trial, before the proper tribunal of the United States. And I do further specially call the attention of the District Prosecutor of the first judicial district of this Territory and the sheriff of Van Buren county to this subject, as the ministerial officers of the laws of the Territory within the district of country over which the

authorities of Missouri have attempted to obtain a surreptitious jurisdiction—and especially direct them that they exercise vigilant promptness in causing the laws of the Territory to be enforced within the said county of Van Buren; and that all offenders against the same be promptly prosecuted, arrested and brought before the proper judicial tribunals within the Territory, to be dealt with as the law directs.

In thus calling upon the civil authority, we do it under the firm belief that it is sufficiently potent to protect the rights of the citizens of the United States, as well as those guaranteed to them by the laws of the United States, as those of the laws of the Territory. Should the Marshal of the United States, however, under any circumstances, deem it expedient to call to his aid in the service or execution of civil process a posse comitatus of armed men, he has the whole force of the Territory at his command; and in like manner should the sheriff of Van Buren county deem a posse comitatus necessary to aid him in the service or execution of civil process, he has the whole power of his county at command. With regard to the necessity or propriety of a call for a posse comitatus, the respective ministerial officers must be the judges, both as to the call and force required. Further than this, we consider an allusion to a military or armed force at this time to be entirely out of place. We think the civil authority of the United States is sufficiently powerful to bring offenders to justice; and though it may not be adopted to make as forcible an impression at the commencement as the military arm, yet generally it operates with more certainty upon offenders—it is more seriously felt in the sequel, and more durable in its

effects upon those it operates upon. I therefore exhort the citizens of United States residing in Van Buren county—those in particular over whom the authorities of Missouri are seeking to exercise an unwarrantable and unjustifiable jurisdiction—to be calm and discreet in all your acts. Look up to the civil authorities of the United States for protection. Should you even be threatened with extermination by the all powerful arms of Missouri, be not dismayed. You are neither slaves that you should pay tribute to a foreign government, nor passive members of a defenceless community, that you should be taxed without your consent. You occupy the exalted station of free and independent citizens of the United States. You purchased the lands on which you reside from the United States as lying within the Territory of Iowa. You have settled on them as such. You owe no allegiance to any other government, and have therefore a right to claim from the government of the United States the protection of all your rights and privileges, which protection will be extended to you through the civil authority, in the first place; but should your county be invaded by an armed force too powerful to be resisted by the ordinary process of the civil authority, I repeat the request made in my proclamation of the 29th July last, that "written evidence of the facts be immediately taken and forwarded to this department," which will be forthwith transmitted to the President of the United States, and his interposition and instruction solicited; and you may rest assured, that should the President of the United States, authorize us to repel force by force, should our Territory be invaded, it will be promptly done, regardless of the

boasted prowess and superior numbers of the Missouri militia.

In Testimony whereof, I have hereunto set my name, and caused the seal of the Territory to be hereunto affixed. Done at the City of Burlington, in the Territory of Iowa, this twenty-
(L. S.) fifth day of September, in the year of our Lord one thousand eight hundred and thirty-nine, and of the Independence of the United States the sixty-fourth, and of the organization of the Territory of Iowa the second.

ROBERT LUCAS.

ON THE SALE OF LOTS IN IOWA CITY

JULY 24, 1840

From Original Copy in the Office of the Sec. of State, Des Moines

In pursuance of the provisions of an Act entitled "An Act directing the valuation and sale of lots in Iowa City, and to provide for executing deeds for the same," approved 24th July, A. D. one thousand eight hundred and forty, I, ROBERT LUCAS, Governor of the Territory of Iowa, do hereby declare and make known, that a public sale will be held at Iowa City, in the County of Johnson, in this Territory, to commence on Monday, the 31st day of August next, for the sale of lots in said City, which sale will be held under the direction of the Acting Commissioner of Public Buildings, and will be continued from day to day until the whole of the lots in said city shall have been offered for sale.

In pursuance of the provision of the aforesaid act, the lots will all be valued previous to the sale, and no lot will be sold for a less sum than the value placed upon each lot. After the close of the public sale as aforesaid, an office will be opened in the city of Iowa by the Acting Commissioner of Public Buildings, where all lots in said city that may not have been sold at public sale can be purchased at private sale at the minimum price placed upon them respectively, by any person or persons applying for the same. All the particulars relating to the conditions of sale will be made known by the Acting Commissioner at the commencement of the public sale.

In Testimony whereof, I have hereunto set my name, and caused the great seal of the Territory to be hereunto affixed.

Done at the City of Burlington, in the Territory of Iowa, this twenty-fourth day of July, in the year of our Lord one thousand eight hundred and forty, and of the independence of the United States the sixty-fifth, and the organization of this Territory the third.

(SEAL)

By the Governor ROBERT LUCAS

JAMES CLARKE,
Sec'y of Territory

ON ELECTION OF DELEGATE TO CONGRESS

NOVEMBER 18, 1840

From the Iowa Territorial Gazette and Advertizer, Vol IV, No. 19, Nov. 21, 1840

In pursuance of the provisions of law, I, ROBERT LUCAS, Governor of the Territory of Iowa, do hereby proclaim and make known, that at the late general election held for Delegate to Congress, it appears by the abstracts of votes returned to the office of the Secretary of the Territory, and this day canvassed by him in my presence, pursuant to the requisitions of the law in such cases made and provided, that AUGUSTUS C. DODGE, was duly elected to represent the Territory of Iowa in the House of Representatives of the United States, he having received at said election a majority of the votes cast at said election for the office of Delegate.

And I do further declare and make known, that according to the abstracts of votes returned to the office of the Secretary of the Territory, and by him canvassed in pursuance of law, there were given within the Territory, at the late election, nine hundred and thirty-seven votes for a Convention, and two thousand nine hundred and seven votes against a Convention.

In testimony whereof, I have hereunto set my hand, and caused the great seal of the Territory (L. S.) to be hereunto affixed, this eighteenth day of November, Anno Domino, eighteen hundred and forty.

ROBERT LUCAS.

By the Governor,

JAMES CLARKE,

Sec'y of Territory.

ON THE SALE OF LOTS IN IOWA CITY

MARCH 15, 1841

From Original Copy in the Office of the Sec. of State, Des Moines

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In compliance with the provision of the 10th Section of the Act entitled "An act providing for the appointment of a Superintendant of Public Buildings at Iowa City, and the appointment of a Territorial Agent, and for other purposes," Approved January the 14th, 1841, I, ROBERT LUCAS, Governor of the Territory of Iowa, do hereby declare and make known, that a public sale will be held at Iowa City, in the County of Johnson in this Territory, to commence

ON MONDAY, THE 10TH DAY OF MAY, 1841,

for the sale of the unsold Lots in said city, upon the following terms viz: One third paid down in cash, and the balance in two semi-annual instalments; *Provided*, that no Lot shall be sold for a less sum than the minimum price fixed thereon by the Agent and appraisers appointed under the provisions of the 9th Section of said act.

The sale will be held under the direction of the Territorial Agent, and will be continued from day to day at his discretion, until all the unsold Lots in said city shall have been offered for sale.

(L. S.) In Testimony Whereof, I have hereunto set my name, and caused the Great Seal of the Territory to be hereto affixed.

DONE AT THE CITY OF BURLINGTON, in the Territory of Iowa, the 15th day of March, A. D. 1841, of the Indepen-

dence of the United States the sixty-fifth, and of the organization of the Territory the third.

By the Governor, ROBERT LUCAS.

JAMES CLARKE, Secretary of Territory.

CONVENING THE LEGISLATIVE ASSEMBLY AT IOWA CITY

APRIL 30, 1841

From the Hawkeye and Iowa Patriot, Vol. II, No. 50, May 13, 1841

WHEREAS the Legislative Assembly of the Territory of Iowa passed an act, which was Approved, on the 13th day of January, 1841, as follows, to wit—"*An act fixing the time* for the annual meeting of the Legislative Assembly."

"Section 1. Be it enacted by the Council and House of Representatives of the Territory of Iowa, that hereafter the Legislative Assembly of this Territory shall commence its annual session on the first Monday of December."

"Section 2. That the next meeting of the Legislative Assembly shall be held in Iowa City, on condition that the public buildings at Iowa City shall be so far completed that the Legislative Assembly can be accommodated in said buildings, or that other sufficient buildings shall be furnished for the accommodation of the Legislative Assembly, rent free; and in either case, the Governor shall issue his proclamation, informing the members of the Legislature of that fact."

"Section 3. All acts and parts of acts coming within the purview of this act are hereby repealed."

And whereas satisfactory assurance, has been given that the conditions of said act will be fulfilled, and that in case the public buildings should not be sufficiently completed at the meeting of the Legislature for their accommodation, that other sufficient buildings will be furnished for their accommodation, rent free.

I therefore in discharge of the duties enjoined on me by the 3d Section of said Act, do issue this my proclamation informing the members of the Legislature of the fact, as provided in said act; and in consideration thereof, I do hereby declare and make known to the members of the Legislative Assembly, and to all other persons concerned therein, that the next Legislative Assembly of Iowa Territory, will convene in Iowa City in the county of Johnson, on the first Monday of December next, as required by the Legislative act aforesaid.

(L. S.) IN TESTIMONY WHEREOF, I ROBERT LUCAS Governor of the Territory of Iowa, have hereunto set my name, and caused the Great Seal of the Territory to be hereto affixed.

Done at the City of Burlington, in the Territory of Iowa, the 30th day of April, A. D. 1841, of the Independence of the United States the sixty-fifth, and of the organization of the Territory the third.

ROBERT LUCAS.

BY THE GOVERNOR,

JAMES CLARKE, *Secretary of Territory.*

GOVERNOR JOHN CHAMBERS

BIOGRAPHICAL SKETCH

John Chambers, the second Governor of the Territory of Iowa, was born at Bromley Bridge, Somerset County, New Jersey, on October 6, 1780. His father, who was of Scotch-Irish descent, served in the war of the American Revolution. When John Chambers was fourteen years of age the Chambers family removed to Mason County, Kentucky.

In 1800 John Chambers was licenced to practice law. His career as a lawyer was quite successful. At one time he embarked in the business of manufacturing, but incurred heavy losses. In 1803 he married Margaret Taylor, who died three years later. In 1807 he married Hannah Taylor, a sister of his first wife. During the War of 1812 he served on the staff of General William Henry Harrison, with whom he campaigned later in the famous presidential campaign of 1840.

As a civil officer John Chambers held many positions. In 1797 he became Deputy Clerk of the District Court. In 1812 he was chosen to represent his county in the State legislature of Kentucky. In 1815 he was re-elected to the State legislature. In 1828 he was elected to fill a vacancy in the House of Representatives at Washington, D. C. In 1830 and 1832 he was again elected to the State legislature. In 1835 he was returned to Congress. He was re-elected to Congress in 1837.

On the twenty-fifth day of March, 1841, he was commissioned Governor of the Territory of Iowa by President

Harrison. He arrived at Burlington, Iowa, on the twelfth day of May, where he succeeded Robert Lucas who was practically removed from office nearly two months before the close of his first term. On the thirteenth day of May John Chambers entered upon his duties as Governor. In 1844 he was reappointed to the office of Governor of the Territory of Iowa by President Tyler; but in 1845 he was removed by President Polk. He retired to his farm, "Grouseland," which was located a few miles west of Burlington. He died on September 21, 1852, at the age of seventy-two years.

Bibliographical Note.—*Annals of Iowa*, Vol. IX, p. 553. *Annals of Iowa*, Third Series, Vol. I, p. 425; Vol. IV, pp. 289, 436.

FIRST ANNUAL MESSAGE

DECEMBER 8, 1841

From the Journal of the Council, p. 10

Fellow-Citizens of the Council, and of the House of Representatives:

It is gratifying to me that on meeting you at this time, I am enabled to congratulate you upon the general prevalence of health among the people of the Territory during the past and present seasons, and upon the rapid increase of our population and steadily advancing improvement of our fertile and beautiful country. Abundance has crowned the labor of the husbandman, and already commerce is coming to his aid and affording a market for the surplus productions of our agriculture. For these good and gracious gifts of the Beneficent Being, to whom we are indebted for them, it is our duty sincerely to manifest our gratitude and thankfulness.

Coming, as you do, from every organized county in the Territory, bringing with you an intimate knowledge of the wants and wishes of your constituents, I do not deem it necessary to enter into a detailed recommendafion of subjects of legislation requiring your attention; and I consider it the less important to do so, because the time is near at hand when, having assumed a permanent form of government, and settled the fundamental principles by which our future legislation will be governed, its enactments will be made to

conform to those principles and become less subject to change.

I will, however, in conformity to usage, avail myself of this occasion, respectfully, to call your attention to some of the subjects which seem to me worthy of your consideration at this time. Among these, the one which strikes me as of paramount importance, is the legislation necessary to the ascertainment of the wishes of the people of the Territory, touching our admission into the Union of the States, as one of the confederates, in the duties and obligations of the National Government. A recent reference of this subject to the people eventuated in the expression of the unwillingness of a very considerate majority, to take upon themselves, at that time, the duties and responsibilities of a State Government; but the rapid increase of our population, and the recent legislation of Congress in relation to the future disposition of the proceeds of the sales of the public lands, will present the subject in a new aspect, and may produce a change of public sentiment upon it. I would, therefore, recommend that it be again submitted to the consideration of the people by a legislative provision requiring an expression of their wishes through the ballot-box, that their representatives may be enabled to act upon this important matter at the next session, in conformity to their clearly ascertained will.

Assembling in conformity to the proclamation of my predecessor in office, at the established seat of government, where the erection of a very important part of the public buildings is in progress, you will be enabled to satisfy yourselves by a personal inspection, whether the execution of

the work and its advancement towards completion, is such as the means put at the disposal of the superintendent, authorized you to expect. You will find from the report of the Territorial Agent, that a considerable debt has been incurred in providing the means for carrying up the capitol as as far it has progressed, and will be enabled to determine whether further provision will be necessary to meet existing demands, and for completing the building, or whether the provision already made will be adequate to the accomplishment of the object in such reasonable time as will meet public expectation.

It not having been made the duty of any of the officers connected with the erection of the penitentiary, to report to the executive department, I can only inform you that from a personal inspection of the work, last summer, it appeared, as far as it had progressed, to be well and substantially executed; but the progress is not commensurate to the necessity for its completion. This proceeds from a want of means to carry it on, and I would recommend an earnest appeal to Congress for such an appropriation as will enable us speedily to complete a work so necessary to prevent this Territory from becoming the refuge of a large portion of the most corrupt and vicious population of the States. Our very limited sources of revenue and the relation in which we stand to the General Government, entitle us to demand at its hands the means of protecting ourselves from so great an evil.

Some disappointment has been felt from the failure of a recent attempt by Commissioners appointed by the President, to obtain from the Sac and Fox Indians a cession of the

lands they claim in this Territory. I, however, confidently hope, that when the causes which produced that failure are understood by the President, measures will be promptly adopted to remove them, and that there will be less delay in opening the most desirable portion of their country to emigration, than would have resulted from their acceptance of the terms proposed to them in the recent negotiation. But it is probable that for a long time we shall remain subject to the evils and inconveniences of having an Indian population on our borders—evils and inconveniences resulting principally from their excessive and growing fondness for intoxicating drink, with which they are supplied by a depraved and vicious portion of our citizens, who, defying alike the laws of morality and of their country, furnish them the means of degradation and destruction, with a full knowledge and perfect disregard of its murderous effects upon them. To this infamous practice these unfortunate people, without exception of age or sex, are rapidly falling victims. Humanity shudders and religion weeps over the cruel and unrelenting destruction of a people so interesting, by means so dastardly and brutal, that the use of the rifle and the sword, even in a time of profound peace with them, would be comparatively merciful. Their indolent habits and aversion to labor render them peculiarly fond of artificial excitement; and when absent from the chase, they will seek it in the form of intoxication, at the expense of every comfort and every necessary they possess, their horses, their guns and their blankets are unrelentingly taken from them, in exchange for the intoxicating draught, and on terms as revolting to a sense of fair dealing, as the

effects of it are to humanity and Christian benevolence. The provision made by our statute on this subject seems to be ineffectual. I cannot learn that any convictions have been had under it; the pecuniary infliction provided by it, is disregarded, and the offence continued to be perpetrated with impunity, and is increasing, the profits of it always affording a sure indemnity against the risk of conviction. I would, therefore, recommend such an amendment of the existing law on the subject, as will add imprisonment to the existing penalty, and will strictly prohibit all white persons from purchasing any articles of property from an Indian, without the written permission of the Agent appointed by the Government to take care of them, making the possession of property derived from an Indian, prima facie evidence of its having been obtained in violation of the law; and it seems to me it would be well to require persons found in possession of spirituous liquors, near the border and under circumstances conducing to prove their object to be to sell to the Indians, to enter into recognizance with sufficient security, to be of good behavior, and making an infraction of the laws on the subject, a cause of forfeiture of the penalty. It is believed the moral and law abiding portion of our citizens derive no pecuniary advantage from a trading intercourse with the Indians, which they would not most willingly forego, to save them from the injuries inflicted by the vicious.

There is a very industrious and valuable class of our population, who conscienciously scruple to bear arms, in whose favor there is no exemption provided by our militia laws; I would recommend that provision be made for such

cases, leaving them subject in time of war to pay an equivalent for personal service.

The plan of public instruction provided by the laws of the Territory has been but very partially brought into operation, whether from a defect in the system, or from inattention on the part of the persons to whom the duty of organizing the township schools has been assigned, or both, you will probably be enabled to judge from the report of the Superintendent. I most earnestly recommend the subject to your consideration. If the system is defective it ought to be promptly altered or amended; and if those to whom the duty of carrying it into effect has been committed, cannot be induced to act under the existing provisions of the law, others should be adopted of sufficient force to ensure the performance of every duty necessary to bring it into successful operation. The subject is one upon which no delay or neglect in any department of the government, or on the part of any persons concerned in the administration of the laws for its regulations, ought to be tolerated.

The experience of the past season, has continued to demonstrate to the states and territories interested in the commerce and navigation of the Mississippi, and particularly that portion of them lying above and between the Des Moines and the Rock Island Rapids, the vast importance of a removal of these impediments to safe navigation. To the rapidly increasing agriculture of this Territory—to the exportation of its valuable mineral productions, as well as to imports, the injury occasioned by these obstructions is of great magnitude, subjecting us, (in a navigation of between two and three hundred miles) to an increase of from one to

three hundred per cent, upon the amount usually paid between New Orleans and St. Louis, and other towns below the Lower Rapids. But the evil is not confined to the very heavy tax imposed upon our exports and imports, an immense amount of property is annually wrecked and totally lost on these rapids, an amount which, it is believed, if added to the increased price of freights, occasioned by them, would, within the present and past years, have been almost sufficient to make a perfect channel thro' their whole extent. It is difficult to conceive a reason for the application of the national treasures to the protection and security of the foreign commerce and coasting trade of the country, in the Harbors, Bays, and Rivers on our Atlantic border and on the Lakes, (for which millions have been expended,) which will not apply with equal force in favor of an expenditure of a few hundred thousand dollars, for permanently removing comparatively slight obstructions in the navigation of one of the noblest rivers in the world.—Believing that, as citizens of the United States, contributing our just proportion of its revenues, we have a claim upon the Government for relief from the evil thus briefly brought to your notice. I recommend a respectful but earnest appeal to Congress in behalf your constituents, for such an appropriation for the removal of the obstructions alluded to, as will effectually protect the commerce of the Upper Mississippi against the losses and impositions to which it is now subject, from causes so easily removed by a proper application of the national means.

I have recently received a letter from the Governor of Missouri, on the subject of the boundary between that State and this Territory, in which he proposes the submission of

the matter in controversy to the decision of the Supreme Court of the United States, upon a statement of facts, in the nature of an agreed case, which letter, with a copy of my answer to it, is herewith submitted for your consideration.

The excess of expenditure in former years, over and above the appropriations made by Congress for the support of the Territorial Government, has given rise to a debt of between eight and ten thousand dollars, which justice to the individuals to whom it is due, requires that it should in some way be provided for, and which, with the reduced amount of the appropriation for the present year, admonishes us of the necessity of strict economy in the administration of the fund put at our disposal by the General Government.

I am, very respectfully,

Your obedient servant,

JOHN CHAMBERS.

APPENDIX

(1.)

EXECUTIVE DEPARTMENT, CITY OF JEFFERSON,
November 10th, 1841.

To His Excellency, The Governor of the Territory of Iowa:

Sir—The General Assembly of Missouri, for the purpose of having the question of boundary between the Territory of Iowa and this State finally adjudicated in the Supreme Court of the United States,

passed an act, at the last session, directing me to cause suit to be instituted in behalf of Uriah S. Gregory, the late Collector of Clarke County, Missouri, against the persons that arrested and imprisoned him while in the discharge of his duties.

I have ascertained that the Sheriff of Van Buren County, who, with others, arrested him, resides in the Territory of Iowa; consequently any suit commenced against him will have be to commenced in that Territory. The object of this communication is to ascertain whether, if suit is thus commenced, the authorities of Iowa will cause to be made such an agreed case, on the record, as will ensure a decision of the Supreme Court of the United States on the question of boundary. I imagine the only controverted fact is that of boundary. This being the case, I see no reason, as it is desirable that the question should be speedly and finally decided by a competent tribunal, why all the necessary facts might not be agreed. If your Excellency concurs with me in this view, the Council on the part of this State will be instructed to *agree* the case in such form as will present the question of the boundary.

I desire to hear from you as early as will suit your convenience.

I have the honor to be, sir,

Your obedient servant,

(Signed) TH. REYNOLDS,

Governor of Missouri.

(2.)

EXECUTIVE OFFICE, BURLINGTON, IOWA TERRITORY,

20th November, 1841.

Sir—I have had the honor to receive your Excellency's letter of the 10th instant, advising me of the existence of an Act of the General Assembly of your State, directing you "to cause suit to be instituted in behalf of Uriah S. Gregory, late Collector of Clark county, Mo.,

against the persons that arrested him in the discharge of his duties, for the purpose of having the question of boundary between this Territory and Missouri finally adjudicated in the Supreme Court of the United States and as the persons proposed to be sued, reside in this Territory," you propose to ascertain whether, "the authorities of Iowa will cause to be made such an agreed case, on record, as will ensure a decision of the Supreme Court of the United States on the question of boundary." That question, it seems to me, is one over which the Territorial authorities of Iowa have no control, the boundary of the Territory, as described by law, gives limits to the exercise of jurisdiction on the part of the Territorial Government, and prescribes the local extent of its obligations to protect those who claim to be citizens of this Territory, but by an express reservation in the law organizing the Territory of Iowa, the boundary remains subject to the future control of Congress, and at the discretion of that body any portion of the country within the limits of the Territory, may be constituted a separate and distinct Government, or be attached "to any other State or Territory of the United States." If I am correct in this view of the subject, it follows that no agreement or statement of facts which the Territorial authorities could enter into, would authorise the Supreme Court to take cognizance of the question of boundary, which it is the object of the act of your Legislature to have settled by an adjudication of that Court, or render its decision, if it should do so, obligatory upon the Government of the United States, or control its legislation in prescribing a boundary for any future State or Territory, which it might be thought expedient to form within the present limits of Iowa. I doubt, too, whether under the Constitution of the United States, the Supreme Court could, even upon a case agreed and by consent of the parties, take jurisdiction of an alleged controversy between one of the States and a *Territory*, remaining subject to the Legislation of Congress. With these views, it only remains for me to submit your Excellency's communication to the Legislative Assembly of the Territory at its next session, and if the views of that body should differ from those I

entertain on the subject, its decision shall be immediately made known to you.

I have the honor to be,

Your most ob't. servant,

JOHN CHAMBERS,

Governor of Iowa.

His Excellency.

THOMAS REYNOLDS,

Governor of Missouri,

Jefferson City, Mo.

SECOND ANNUAL MESSAGE

DECEMBER 7, 1842

From the Journal of the House of Representatives, p. 12

Fellow Citizens of the Council, And of the House of Representatives:

Since the last annual meeting of the Legislative Assembly, the people of the Territory have continued to enjoy the blessings of health and peace, and industry has been rewarded with abundance. Let us, therefore, in renewing our efforts to promote the general welfare, not forget to acknowledge, with humility, our dependence upon the Most High, and to implore a continuance of his protection and favor.

Our population has continued steadily to increase, and the progress of improvement, in the limited extent of territory open to settlement, has been most cheering.

By a treaty recently made with the Sac and Fox Indians, under the direction of the President, they have ceded to the United States all their remaining claims to land in this Territory, embracing a tract of country estimated to contain ten millions of acres, a very large proportion of which is unsurpassed in fertility and beauty by any in the world—abounding in navigable streams of the purest water, and offering inducements to its settlement at least equal to any portion of the great valley of the Mississippi. If this treaty should meet the approbation of the President and Senate, the

immediate influx of population into the country acquired by it will, in order to give effect to the laws and ensure the due administration of justice, render the organization of additional counties necessary.

Under the provisions of the Act of the last session "to provide for the expression of the opinion of the people of the Territory upon the subject of the formation of a State Constitution and Government, and to enable them to form a Constitution for the State of Iowa," polls were opened in all the counties, at the time of holding the general election for members of the Council and House of Representatives, and the question of "Convention" or "No Convention" submitted to the voters. Returns of the result have been made to the Secretary of the Territory, (with the exception of a single precinct in one of the counties,) which show a majority in every county, and a large aggregate majority, against a convention.

The progress of the edifice for the accommodation of the Legislature and the Public Offices at the seat of Government, has been quite as rapid and satisfactory as the means placed at the disposal of the Territorial Agent and Superintendent could have justified us in expecting. Whether the provision already made will be sufficient for the completion of the building, you will be enabled to determine after the reports of the Agent and Superintendent shall be submitted to you.

The further progress of the Penitentiary buildings is arrested by the want of means to carry on the work; and, although Congress has appropriated money to pay the debts heretofore contracted for labor performed and materials furnished, we are left to regret the failure to supply the

means of completing it—and to regret the more deeply, because, while our citizens, by their enterprise and industry are daily enhancing the value and availability of the public domain within our Territorial limits, it forms so large a portion of the great source of revenue, available to our more furtunate neighbors of the States, but prohibited to us, that, to raise revenue for such purposes by a direct tax upon those who have obtained a right to small portions of land, by the sacrifice of all their present enjoyments and many of the comforts of a more advanced stage of improvement, would be unjust and oppressive—struggling, as they are, amidst the exhaustion of their pecuniary means thus produced, to erect shelters for their families, and bring into cultivation a sufficient portion of the soil for their support. Such a tax, in addition to the contributions demanded of them for indispensable county purposes, would operate with a degree of severity which, it is feared, the Representatives of the States in Congress do not justly appreciate. Our population, like that of most new countries, is made up, in a great degree, of enterprising and industrious individuals with young and dependent families, who, urged by the hope of bettering their condition, press forward to the frontier with very limited means; and all the money they bring with them, as well as the first products of their labor, is immediately absorbed in the purchase of small portions of land, and in efforts to render it available for their subsistence. None but those who have witnessed can justly appreciate the privations, and, in many instances, the actual suffering, submitted to by the enterprising and hard working inhabitants of a frontier settlement, for the procurement of permanent

homes, in even the smallest legal subdivision of the public land. To such a population, standing in the front rank of the general defence, in case of war with our savage neighbors, extending the march of civilization into the wilderness, increasing the population and resources of the Republic, and replenishing the national treasury, by the application of all their resources to the purchase of the public lands, (which but for their enterprise and industry would be comparatively valueless,) a just and liberal government ought not to dole out its aid with a parsimonious hand.

Our criminal laws have been enacted with a view to the reformation of offenders, by the substitution of confinement and labor for punishments of a sterner character. Their due administration is inseparably connected with the use of the Penitentiary; and, in the absence of the hoped for aid of the General Government to complete it, I commend to your earnest consideration whether, under existing circumstances, any means, not absolutely oppressive to our fellow citizens, can be devised for carrying on and so far perfecting the work as to render it more extensively available for the purposes for which it was commenced.

In my last annual message I took occasion to call the attention of the Legislature to the inefficiency of the law to prohibit and punish the sale of intoxicating liquors to our Indian neighbors; but no further legislation on the subject was then deemed necessary, and the offence has continued to be perpetrated, with very few exceptions, with entire impunity, and is increasing in frequency. I deem it, therefore, an imperative duty again to invoke your deliberate consideration of the matter. The crime not only involves

a breach of positive law, and a most pernicious and degrading disregard of the principles of morality and religion, but tends to produce collisions between our frontier inhabitants and the Indians, affecting life and the destruction of property, and may lead to conflicts of a more extensive and dangerous character, without some more effectual means of suppressing it than at present exist can be devised.

No serious effort seems to have been made in any part of the Territory to carry into operation the plan of public instruction provided for by the existing laws; and it is to be feared that until the *permission* to organize township schools is rendered a positive duty, enforced by proper penalties for neglect, the laws now in force will remain inoperative.

The almost total failure of the officers of our militia to make returns of the numerical strength and equipment of their respective commands as required by law, puts it out of the power of the War Department of the General Government, under the existing laws of the United States, to make such a distribution of arms to the Territory as, with proper returns and reports, we should be entitled to; and such is the universality of this gross negligence of duty, that it seems to leave the executive authority no means of correcting the evil but by a resort to the onerous duty of a general dismission of delinquents from command, leaving it doubtful whether others could be found to fill their places who would perform the duties with more efficiency. I would, therefore, respectfully suggest for your consideration the propriety of imposing pecuniary penalties for this description of official delinquency; and (as it would be difficult, if not impossible, under existing circumstances, to constitute a

military court, in which the judges and the accused would not be found equally in default) to commit the enforcement of such penalties to the civil tribunals.

The experience of another year confirms the opinion expressed at the close of the last, of the vast importance to the people of the west of the removal of the obstructions to the safe navigation of the Mississippi and its principal tributaries. The destruction of property (to say nothing of the loss of life) occasioned by these obstructions, in the last ten or twelve months, is believed to be equal in amount to the sum necessary for their removal; but, as a work of so much magnitude and general importance can only be effected by the concentrated action of the nation, through its Representatives in Congress, we must endeavor to console ourselves with the hope that the time cannot be very remote when union and concert among the representatives of the people interested in the navigation of the western rivers, will convince their brethren of the Atlantic States that *their interest* will be best consulted by allowing to us a just participation in the benefits to be derived from the application of the national treasure to the protection and security of commerce. The west has a right to demand such a participation, and, with union and concert among its representatives, the power to obtain it. Iowa, it is true, has no voice in the councils of the nation, but her citizens are contributors to the support of its government, and have a right to expect equal benefits from its action, which it can hardly be alleged they enjoy, while hundreds of thousands of dollars worth of their property is annually destroyed upon one of the largest rivers in the world, for the want of an expenditure of a much less

sum than has been appropriated from the national treasury for the construction of a single breakwater or artificial harbor in the Delaware river, *for the protection of commerce.* Whether it is worth while further to press this subject upon the attention of the *present* Congress by way of memorial or petition, is respectfully submitted to your consideration.

The restrictions imposed by an Act of the last session of Congress upon the expenditure of the appropriations for the support of the Territorial Governments, as well as the sum appropriated for this Territory, indicates a necessity for retrenchment in the usual expenses incident to your session. It is my duty, therefore, to recommend despatch in the performance of your legislative duties and economy in the expenditure of the fund appropriated for the expenses of your session.

It remains only for me to assure you of my readiness to co-operate with you in such of your acts as may require executive interposition.

I am, respectfully,

Your obedient servant,

JOHN CHAMBERS.

DECEMBER 7TH, 1842.

THIRD ANNUAL MESSAGE

DECEMBER 4, 1843

From the Journal of the House of Representatives, p. 9

IOWA CITY, December 4th, 1843.

Fellow Citizens of the Council and of the House of Representatives:

Since the termination of the last session of the Legislative Assembly, it has pleased the Almighty Power, in whose hands we are, to vouchsafe to the people of this Territory as great a degree of exemption from disease as has fallen to the lot of any portion of our extensive country; and although, in some localities, recent emigration and the exposure incident to a want of comfortable houses for a short time, have produced bilious diseases, in a mitigated form, still it may be asserted with perfect truth, that no portion of the country, watered by the tributaries of the Mississippi, has in its early settlement been more favored in the health of its inhabitants than Iowa, and while a bounteous providence has blessed us with abundance we have cause to felicitate ourselves that, the peace and personal security of our citizens have been undisturbed and unmolested in a degree which many older communities cannot boast of.

Heretofore we have been prosperous, and well protected under the fostering care of the General Government, and if in some respects our commerce has not been as liberally provided for and promoted, as we had a right to expect,

and as an enlightened policy would have dictated, it is gratifying to know that the omission affects in common with us, an interest so extensive and a population so numerous—now fully represented in the councils of the nation—that the period cannot be remote, at which this subject will be pressed upon the government with a power which will not be easily resisted. And we may promise ourselves too, that at an early day we shall be permitted to add some additional weight to the already numerous representation in Congress from the great valley of the Mississippi, in demanding the efficient action of that enlightened body in promoting the vast and rapidly increasing agriculture and commerce of the western States and Territories.

These interests have been too long permitted to languish and suffer from obstructions to the safe navigation of our rivers, which the government could, and ought to have caused to be removed, and although our former attempts to attract the attention of Congress to the subject have been unsuccessful, we owe it to ourselves to renew our efforts, and especially at this time to insist earnestly upon a full consideration of our claims to relief from the severe losses and heavy impositions under which we labour, from causes so easily removed by the power to which it belongs to redress the grievance; a new Congress has now assembled, and for the first time for ten years the people of the new States are represented in proportion to their numbers, we may therefore reasonably hope for a more favorable consideration of those interests which have heretofore seemed to be too far from tide water to attract the degree of attention which their importance merit.

Our population has now, it is confidently believed, attained a numerical strength which entitles us to a participation with the States of the Union in the government of its affairs, and to the benefits of local legislation, subject to no restraints but such as are imposed by the constitution of the United States, and as we may choose to impose in the formation of a State constitution. I therefore consider it my duty, respectfully to recommend, that you make provision by law for ascertaining the wishes of your constituents in relation to this important matter; and that you apply to Congress to fix and establish, during its present session, a boundary for the proposed State, and to sanction the calling of a convention, and make provision for our reception into the Union as soon as we shall be prepared to demand it. The establishment of a boundary for us by Congress, will prevent the intervention of any difficulty or delay in our admission into the Union, which might result from our assuming limits which that body might not be disposed to concede to us.

Early in the month of May last, the confederated tribes of the Sac and Fox Indians, in conformity to their treaty with the United States of the 11th of October, 1842, removed to the west of the temporary boundary established by that treaty, which has since been ascertained by actual survey and marked, under the direction of the government.

The removal of these tribes has opened an extensive and very valuable portion of our territory to settlement, and the tide of emigration which immediately rushed into it, and has continued to flow ever since, shows that its value and importance are justly appreciated.

The increase of population west of the old Indian boundary, will render it necessary that provision be made by law for attaching some of the counties formed by the act of the last session, to the judicial districts, and placing them in all respects upon an equal footing with the counties previously organized.

In the month of July last the President directed a negotiation to be opened with the Winnebago Indians, with a view to their removal from the tract of country known as the Neutral Ground, where their vicious habits had rendered them offensive and dangerous to the adjacent white inhabitants; but every effort to induce them to remove, proved unavailing, and I fear their obstinacy and almost universal intemperance, acted upon and encouraged by interested advisers among the whites, whom they look upon as their friends, will induce them to continue to resist the benevolent wish of the Government to provide a residence for them more remote from white population, and where the facilities they now enjoy for indulging in their besetting sin of habitual drunkenness, would not be afforded them, until their conduct will produce a necessity for compelling them to take a position less annoying and dangerous to our citizens, and less destructive to themselves. In the meantime, the War Department has caused such instructions to be given to the officer in command of the United States troops at Fort Atkinson, as it is hoped will in a great measure protect our citizens residing near the Neutral Ground against further aggressions from these besotted people.

It is proper to state in this connection, that the intemperate habits of these Indians can be clearly traced to a de-

praved and lawless portion of our citizens, who, in defiance of the laws of the United States and of the Territory, and in total contempt of every principle of morality continue to supply them with whiskey in such quantities as to keep a large portion of them in a state of almost uninterrupted intoxication. The laws prohibiting this offence, impose only pecuniary penalties for a breach of them, and the frauds and extortion practiced upon the Indians by the offenders, enable them, in case of conviction, to pay the penalties imposed, and still prosecute their infamous traffic with a large profit. The fact is well known to these lawless people that their practices not only endanger their own lives, but the lives and property of their unoffending fellow citizens and cause the butchery and destruction of their Indian victims to an extent not generally known to others; but these evils produce no compunctions with them, and I earnestly recommend to you the revision and amendment of the existing laws in relation to this crime, with a view to the infliction of more exemplary punishment for its commission, and if possible to ensure a more effectual execution of whatever provisions now exist or which you may deem necessary to enact for its prevention and punishment.

The work on the public buildings at this place has been limited during the past season by the means placed at the disposal of the Territorial Agent, and its further prosecution will depend upon such provision as you may deem it expedient to make for that purpose.

The payment of the unsatisfied debts against the Territory, incurred under legislative authority on account of the public buildings, ought to be provided for and met, with as much promptitude as practicable.

Last spring the Warden of the Penitentiary communicated to me a plan of operations which he proposed to adopt for the advancement of the work on the buildings and enclosures then in progress, and which were indispensable to the secure keeping and accommodation of the convicts; his proposition embraced what I deemed the most profitable employment of the labor of the convicts, with the least expenditure for which it was practicable to attain the object of such an enlargement of the accommodations of the institution as the increase of the number of convicts demanded. The plan proposed met my decided approbation, and as the Warden proposed to incur the risk of a legislative provision for such advances as its execution might require, I assured him of my hearty concurrence in any measure which the legislature might think proper to adopt for his indemnification, and I learn from a report which he has made me, that he has very successfully prosecuted the work he contemplated, with an expense even less than he had estimated; adding greatly to the comfort and security of the convicts, and placing the institution upon such a footing, as will with proper management enable us to avoid the necessity of future appropriations for its support. The Warden's Official Report will explain to you more at large the nature and extent of the work he has caused to be done and the expenditure he has incurred; and I respectfully recommend that provision be made by law for reimbursing him.

We have still to regret that our repeated appeals to Congress for the means of completing this work, so necessary to the due execution of our criminal laws, have been attended with but little success, but in the relation in which we stand

to the General Government, our claim for such aid, is to my mind so undeniably just and proper, that I cannot refrain from recommending that it be again presented and urged upon the attention of that body.

In my former communications to the Legislative Assembly, I have represented the almost universal neglect of the officers of the militia to perform their duties, and especially that their failure to report the number and equipments of their respective commands, as required by law, puts it out of the power of the War Department of the General Government to furnish us with the arms to which we would be entitled upon making proper returns. No change has taken place in this respect, and if the means of putting arms into the hands of our militia is deemed important to the safety of our extensive and exposed frontier, I would again recommend the adoption of such measures as will enable us to obtain them. The causes which render hopeless any effort to enforce the performance of the official duties of our militia officers, by military means, are stated at length in my last annual message, to which I beg leave respectfully to refer you.

The law authorizing the organization of township schools, seems to be entirely overlooked by those to whom the duty is committed, and it is mortifying to see how little interest the important subject of education excites among us, even the school lands, or sixteenth section, in every township, are found in most cases, to be wholly neglected, and in many to have been converted to individual use, or to have been trespassed upon and pillaged to their great injury. The value of this provision for education cannot be too

highly appreciated, and I earnestly recommend that the County Commissioners in every organized county be not only permitted, but *compelled* in every instance where the school lands are found in the unauthorized occupancy of individuals, to obtain possession of them by such legal means as may be necessary for that purpose, or at their discretion, to permit the occupants to become tenants, paying a moderate rent in making improvements on the land or otherwise, and covenanting to commit no waste, and to surrender the possession to them or their successors in office, at the expiration of the term agreed upon, and that where the lands are not occupied, the County Commissioners be required to protect them against trespassers and to cause them to be settled and improved whenever it may be practicable to do so.

Notwithstanding the restrictions imposed by Congress upon the expenditure of the appropriations for the support of the Territorial Governments, I find that the pay and mileage of the members of the Legislative Assembly of this Territory, the pay of its officers, printing and other incidental and miscellaneous expense of the last session, amount to about five thousand dollars more than the appropriations made by Congress for those objects. This is the more to be regretted because the territorial treasury does not afford the means of paying the deficiency, and the persons to whom it is payable are left to the doubtful contingency of their claims being paid at the United States Treasury, and may be compelled to wait a further appropriation by Congress to satisfy them; to avoid a recurrence of such a state of things, I would respectfully recommend that your appropri-

ations of the fund allowed by Congress for legislative purposes, be made as specific as possible, and in no case permitted to exceed the fund from which they are to be paid. Despatch in the discharge of your legislative duties and economy in the expenditure of the money appropriated for the expenses of your session, may enable you to leave a considerable amount of that fund unexpended, which, on your representation, Congress would probably permit to be applied to the payment of the deficiency of last year.

I beg you, gentlemen, to be assured that it will give me pleasure to co-operate with you in the adoption of such measures as may tend to promote the happiness and prosperity of our fellow-citizens.

I am, very respectfully,

Your obedient servant,

JOHN CHAMBERS.

FOURTH ANNUAL MESSAGE

MAY 5, 1845

From the Journal of the House of Representatives, p. 14

Fellow Citizens of the Council, And of the House of Representatives:

Since the last meeting of the Legislative Assembly, the people of the Territory have had renewed cause of gratitude to the most High, for the many and great blessings with which he has favored them, and especially for the general prevalence of health and abundant supplies of the necessaries and comforts of life.

The tide of emigration continues to pour into our favored land a numerous and intelligent population from almost every state of the Union, and you enjoy a high and proud privilege in representing in the law making department of the Territorial Government, a people of whom it may be justly said, that in proportion to their numbers they possess as much intelligence, morality and religion as any other within the wide limits of our national sovereignty. It gives me pleasure to inform you that the laws have been duly administered, and the duties of the public functionaries faithfully performed.

The Act of the Legislature of the 12th of February 1844, "to provide for the expression of the opinion of the people of the Territory of Iowa upon the subject of a State Constitution for the State of Iowa" resulted, as you know, in the

vote of a majority in favor of a Constitution, and Delegates for a Convention having been elected in conformity to the provisions of the act, they assembled at the Capitol in November last and performed the duty assigned them. The Constitution as it came from the hands of the Convention was presented to Congress at the last Session, and an act was passed by that body for the admission of Iowa into the Union as a State, upon certain conditions, among which was our acceptance of a boundary so greatly curtailing on the North and West the limits of the proposed State, as included in the boundary adopted by the Convention, as to cause very general dissatisfaction among the people of the Territory—indeed such is the general repugnance to the boundary offered us by Congress, that I believe it will with great reluctance be acceded to at any time.

The vote taken at the election in last month for and against the Constitution, in conformity to the provisions of the act of the 12th of February 1844, to which I have before referred, though not yet officially ascertained, has certainly resulted in the rejection of that instrument, and there is reason to believe that the boundary offered us by Congress had much influence in producing that result. The rejection of the Constitution by the vote of the people, will impose upon you the necessity of further legislation preparatory to presenting anew to Congress, our claims to admission into the Union.

The opinion prevails with many of our fellow citizens that at present, and under existing circumstances a majority would prefer to remain under the territorial government, to incurring the responsibilities and expenses of a State govern-

ment; and a proper respect for the respectable minority who voted against a Convention last year, and the well known fact that many who voted for it have since changed their opinion, would seem to justify, if not require, that the question be again submitted to the people, whether or not they will at this time have a Convention, especially as no time will be lost in again presenting our claims for admission into the Union, if the majority should at the next August election vote for a Convention—and in that case the course pursued under the act of 12th of February, 1844, would bring us to the same result, in time to present the Constitution to the new Congress at its first session.

The contested boundary between the State of Missouri and this territory has recently produced consequences greatly to be regretted. Two individuals, the Sheriff and deputy Sheriff of the county of Adair, in Missouri, which has been so organized as to embrace a part of our county of Davis, have been indicted in that county.—The Sheriff for exercising his office within our boundary, without legal authority, and contrary to our Statute, and the deputy for arresting in Davis county and falsely imprisoning a citizen of this territory. In the latter case a trial was had at the last term of the District Court in that county, which resulted in a conviction and sentence of fine and ten days imprisonment in the Penitentiary. The trial of the Sheriff was continued until the next term of the Court, and upon his refusal to enter into a recognizance (without security) for his appearance, the Court ordered him to be committed to prison. The moment I received such information in relation to these transactions as I could rely upon, I pardoned Linder, (the

convicted deputy Sheriff) and remitted his fine, and at the same time pardoned Mullinix the Sheriff, the offence for which he stood indicted, and directed the officers having him in custody to release him. There can be no doubt that these men in the commission of the offences against our laws, for which they were indicted acted under the authority of the State of Missouri, and in what they considered the discharge of their official duty, and hence, as well to satisfy the authorities of Missouri that we are by no means disposed to prosecute this unfortunate controversy in a vindictive spirit, I deemed it my duty to relieve their citizens from the difficulties into which they had fallen. This controversy is to be regretted, not only for the immediate and probable effects of it, but because the Territorial Government has no power to adjust it, or join in the submission of it to a competent tribunal. Congress by an act entitled "An act respecting the Northern boundary of the State of Missouri," approved June 17th 1844, authorized the State of Missouri, if her Legislature thought proper to assent to the provisions of the act, to appoint one Commissioner, and the Territorial authorities to appoint one, and authorized the two so appointed to select a third to act with them in the adjustment of this controversy, and the Legislature of Missouri, as I learn from a copy of the Message of the Governor of that State, passed an act to carry into effect the act of Congress, but the Governor declined to approve it and returned it with objections to its passage, and I have understood, (though not officially informed of it,) that the measure failed, so that the controversy remains as it stood before the passage of the act of Congress. I send you a

copy of a letter which I addressed to the Governor of Missouri on the occasion of the discharge of the individuals prosecuted in Davis county, and respectfully recommend that you take the lead in applying to Congress to make provision for an immediate legal adjustment of the controversy. Until it can be finally settled there will be constant danger of collision between the authorities of Missouri and those of this Territory, and citizens holding office under either Government, will be subject to much inconvenience, and possibly to injury for the discharge of what they are constrained to consider their official duties. The territorial government has no power to surrender the disputed territory, if they were disposed to do so, (which they certainly are not;) it has been committed to us by the General Government, and we have at all times exercised jurisdiction over it—to abandon it therefore would be a dereliction of duty, not only to the government of the United States, but to its inhabitants, who claim to be citizens of this territory, and demand the protection of its laws; some years ago this controversy came very near producing armed hostilities between the state of Missouri and this Territory. My predecessor in office, on that occasion, called a portion of the Militia into service to protect our citizens resident within the disputed tract of country, against the exercise of the jurisdiction of Missouri over them, in doing so he acted in the discharge of a duty which evidently resulted from the relation in which the Territory stands to the government of the Union; but it would seem from the repeated refusals of Congress to provide for the payment of the officers and men called into service on that occasion, that the effort then

made to sustain the right of the United States against the claims of Missouri, was not considered as authorized, and hence it may reasonably be feared that our citizens would with great reluctance perform a service which receives neither money nor thanks from those for whom it would be rendered. But it is hoped that a necessity will not again occur for putting their patriotism to such a test; the idea of a resort to arms between neighbors, citizens of the same government, in such a controversy cannot be tolerated, but in a case of extreme necessity, I respectfully submit the subject to your consideration, and recommend that such measures may be adopted as you may consider best calculated to protect our citizens resident within the disputed boundary, against the necessity of submitting to the laws of two distinct and independent governments, and of being held liable to be punished for resistance to either, and by both for any offence against the penal laws common to both.

Our Indian neighbors within the Iowa Superintendency have conducted themselves with more than ordinary propriety during the last winter and present spring. The Sacs and Foxes, with a few exceptions among the latter, give strong assurance of their intention to remove next autumn from the Western part of the lands ceded by them to the United States, by the treaty of October, 1842. Their removal will open an extensive, fertile and beautiful portion of the territory to immediate settlement, and subject it to the laws of the Territory. I would therefore respectfully recommend that provision be made by law for attaching it, prospectively, to the adjacent organized counties for judicial and other purposes.

In November last, the government of the United States made a second unsuccessful effort, to induce the Winnebagoe Indians to relinquish the Neutral Ground and take up their residence in some part of the country, appropriated to the use of the Indian tribes removed by government from within the limits of the States. This policy of the government in reference to the Indians, however unjustly it may seem to operate in some particular instances, is for the most part humane and wise, and considered in reference to the present condition and future prospects of the Winnebagoes, is peculiarly so. The large annuities paid by government and the total insufficiency of the laws enacted for their protection against the avaricious feelings and demoralizing practices of the whites, doom them (unless speedily relieved) to become the certain victims of that rage for intoxicating drinks, to which the indolent and irregular habits of the Indian race render them particularly liable. They have become perhaps the most degraded of all the western tribes —they have no longer the habits of the Red Man—the chase is almost abandoned, and the Council fires, if kindled at all, seem only intended to light up the wretched scene of their drunkenness and debauchery. The money and provisions furnished them by government would render them, in a location suited to their habits and remote from the poisonous influences which now surround them, entirely independent of any of those casualties affecting the means of living of the most favored communities, but so long as they are supplied with liquor by the abandoned and profligate scoundrels engaged in this most nefarious traffic, they will continue to diminish in numbers and to descend if possi-

ble, into still lower depths of degredation. Neither a regard for the comforts of the Indians themselves, nor the peace and safety of the white population residing near them, seem to impose the least restraint upon these abandoned and unprincipled men, while the immense profits accruing from the successful prosecution of their trade furnish the ready means of defraying the pecuniary penalties imposed by law, and leave an ample remuneration for their most philanthropic labors. I have continued to urge upon your consideration at each successive session, the importance of further and more severe legislation upon this subject, and I now again respectfully suggest the propriety of such additional legislation as will restrain the practices referred to. The consequences resulting from the continuance of this traffic, are shocking to humanity, and disgraceful to a christian people. We have undertaken the guardianship of this unfortunate race, and are responsible for its faithful execution, and I know no reason why the persons, as well as the purses of this class of offenders should not be reached, if necessary for the attainment of the object.

Our Statutory Code seems to be satisfactory to the people, and I am not aware that any material changes in it are necessary. No provision has been made for the publication of the acts of the extraordinary session of the Legislature held in the month of June of last year. I beg leave therefore to suggest the propriety of providing for their publication with the acts of the present session.

The appropriation made last year by Congress for the expenses of your session, was made subject to the payment of the arrearages of expenses of previous sessions, and has

been so far applied to that purpose, as to make it necessary that your present session should be a short one, to bring the expenses of it within the amount remaining in the hands of the Secretary for their payment, and I earnestly recommend that it may not be exceeded. The creation of demands against the Territory, for the payment of which the Treasury affords no means, under the expectation, (which may be disappointed,) that Congress will provide for them, is productive of great inconvenience to those to whom they are payable, and ought to be avoided. I therefore respectfully recommend despatch in the performance of your duties, and beg leave to assure you of my readiness to co-operate with you in any measure tending to the promotion of the general good.

I am, very Respectfully, Your ob't. Serv't.,

JOHN CHAMBERS.

IOWA CITY, MAY 5, 1845.

EXECUTIVE OFFICE, BURLINGTON, IOWA,
April 19, 1845.

Sir:—I have this moment learned with deep regret, that a citizen of Missouri, known by the name of William P. Linder, has been tried and convicted in the county of Davis in this Territory, upon an indictment for an assault and battery, and kidnapping and falsely imprisoning one Frederick Acheson, a citizen of this Territory, and that the charge involves a question of jurisdiction over the tract of country claimed by Missouri within the assigned limits of Iowa. Mr. Linder, as I learn, justified the arrest which gave rise to the prosecution against him, under legal process issued by authority from the county of Adair, in Missouri, and put into his hands as a

deputy Sheriff of that county. No official communication of the arrest of Mr. Linder, or the circumstances which gave rise to it, had been made to me, and the rumor of the collision had passed away, under the impression on my part, and that of the judge and prosecuting attorney of the Judicial District, that it had been a mere personal collision between individuals, of which it would be the better course to take no notice; but at the commencement of the term of the territorial District Court in Davis county last Monday, Mr. Preston Mullinix Sheriff of your county of Adair, and Mr. William P. Linder (the individual convicted) presented themselves in discharge of recognizances into which they had entered, and demanded to be tried. The case of Mr. Mullinix was postponed until the next term, and upon his refusal to give his *individual recognizance* for his appearance at the next term of the Court, he was of necessity, ordered to be committed to prison. Mr. Linder having urged an immediate trial, was indulged in it, and the result was as I have stated, the effects of which, as far as he is concerned, I have hastened to prevent by extending to him an unconditional pardon. I have also pardoned Mr. Mullinix the offence imputed to him and ordered him to be released from custody.

Your Excellency will, I feel confident, unite with me in deeply regretting the effects of this unfortunate conflict of jurisdiction which has given rise to these prosecutions, and will see the unpleasant predicament in which the territorial authorities are placed. Without power to adjust the dispute, and yet bound to maintain jurisdiction over the limits assigned them by the General Government, or be considered unfaithful to their trust. You will observe that by thus presenting the subject I intentionally avoid any discussion of the question of boundary—it would be useless for us to discuss that question while Iowa remains without power to adjust it, or enter into any arrangement by which it can be judicially settled; and here it is proper that I should inform you, that it is well understood here, though not yet officially ascertained, that the people have at their election held on the first Monday in this month, refused to accept

the Constitution prepared for them by their convention. Thus circumstanced the territorial authorities can exercise no control over this difficult controversy; and it must for the present remain between the United States Government and that of Missouri. Your Excellency will therefore I hope pardon me for suggesting the propriety of an application from the State authorities of Missouri to Congress, for permission to litigate the subject of boundary either with the territorial government or directly with that of the United States. Such an application would, I have no doubt, be seconded by the Legislative Assembly of this Territory, and the embarassments created by this vexed question be thus gotten rid of. I had hoped that the act of Congress entitled, "An act respecting the Northern Boundary of the State of Missouri," approved June 17th 1844, might have lead to a speedy and amicable adjustment of this dispute, but I have been favored with your Excellency's objections to the bill passed by the Senate and House of Representatives of your State, giving her consent to the matter of adjustment proposed by the act of Congress, and have therefore taken the liberty to suggest another mode, or rather an application to Congress to authorise another mode, of adjustment. In the meantime, I have entire confidence that your Excellency, will unite with me in using every practicable means of prohibiting further collision between the authorities of your State and those of this Territory, until the existing difficulty can be removed.

I have the honor to be,

With great respect,

Your Excellency's Ob't. Serv't.,

(Signed) JOHN CHAMBERS.

His Excellency,

JOHN C. EDWARDS, Governor of Missouri.

VETO MESSAGES

TO THE COUNCIL AND HOUSE OF REPRESENTATIVES

DECEMBER 13, 1841

From the Journal of the House of Representatives, p. 29

EXECUTIVE OFFICE, IOWA CITY, 13th Dec., 1841.

To the Council and House of Representatives:

I return to the House of Representatives, in which it originated, the joint resolution "relative to carrying the mail from Iowa City to Keosauqua," &c., with my objections to it.

Without entering into the question, whether the power "to establish post offices and post roads" conferred by the Constitution of the United States upon Congress, precludes the exercise of like powers by the States and Territories? and without questioning the power of the Legislative Assembly of this Territory to employ special messengers for any necessary purpose, I am entirely satisfied, that the exercise of such a power as is proposed by this resolution, cannot be effected through the instrumentality or agency of the postmasters appointed by, and acting under the authority of the General Government, without a departure, on their part, from their duties and obligations to the Post Office Department; and not being willing to request an officer of the Government to do an act which I should consider a viola-

tion of his duty, I am constrained to withhold my signature and approval from this joint resolution.

Very respectfully, your obedient servant,

JOHN CHAMBERS.

TO THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 1842

From the Journal of the House of Representatives, p. 231

EXECUTIVE OFFICE, IOWA CITY, 9th February, 1842.

To the Speaker of the House of Representatives:

I return to the House of Representatives, in which it originated, an act entitled "An act, appointing an Acting Commissioner at Iowa City, defining his duties, and for other purposes," which has been presented to me for approval and signature. It creates an office and appoints an individual by name to fill it, it provides a salary for him and defines his duties. The act of Congress entitled "An act to divide the Territory of Wisconsin and establish the Territory Government of Iowa," contains the following provisions: "The Governor shall nominate and by and with the advice and consent of the Legislative Council shall appoint all judicial officers, justices of the peace, sheriffs, and militia officers, except those of the staff, *and all civil officers not herein provided for.*" Of this latter description, I take the office to be, whose appointment as Commissioner this act assumes to make. I consider it, therefore, manifestly in conflict with that provision of the Organic Law, to which I have referred, and for that reason, cannot approve it.

JOHN CHAMBERS.

TO THE COUNCIL AND HOUSE OF REPRESENTATIVES

JANUARY 7, 1843

From the Journal of the Council, p. 49

EXECUTIVE OFFICE, IOWA CITY, 7th January, 1843.

To the Council and House of Representatives:

I return to the Council, in which it originated, a joint memorial to Congress on the subject of running and marking the temporary boundary line between that portion of the land ceded to the United States by the late treaty with the Sac and Fox Indians, which they are to occupy for a time, and that portion of it, which they are to surrender the possession on the first day of May next.

The memorial recites, that the Indians are, by the provisions of the treaty, to retain as their home and abiding place for the term of three years, from and after the first day of May next, all that part of the country lately ceded by them to the United States, lying west of a line running due north from the northern boundary of the State of Missouri, and crossing the Des Moines river, at the mouth of the White-breast.

Having acted as the Commissioner of the United States, in negotiating the treaty referred to, I am enabled to state to the Council and House of Representatives, that they have been misinformed as to the time, during which the Indians have reserved the right to occupy the lands west of the line alluded to, and also as to the point at which that line is to intersect the Des Moines.

The reservation of the right to occupy a part of the ceded

country, is for three years from the day the treaty was signed (11th October last) and the point of intersection at present is eight miles when reduced to a straight line, up the White-breast from its junction with the Des Moines; and and as my approval of the memorial would seem to sanction the misconceptions I have explained, I am constrained to withhold my approbation of it. I would, however, beg leave respectfully to state to the Council and House of Representatives, that the treaty to which their memorial refers, contains a stipulation that the President of the United States shall as soon after the ratification as may be convenient, appoint a commissioner to run and mark the boundary to which the memorial relates.

I have the honor to be very respectfully,

Your ob't. servant,

JOHN CHAMBERS.

TO THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 1843

From the Journal of the House of Representatives, p. 311

EXECUTIVE DEPARTMENT, IOWA CITY, 14th February, 1843.

I return to the House of Representatives in which it originated, a bill entitled "an act to divorce certain persons therein named," with my objections to it.

This bill provides for divorcing no less than nineteen couples, who have been lawfully joined in marriage. It proposes to rend asunder the most sacred ties by which members of the human family can become connected, deeply involving in the consequences, the unoffending offspring of

those marriages, and leaving them to the mortifying consciousness that one of those to whom they owe their existence, stands branded by a grave and solemn act of legislation, as being unworthy of the relation in which they stand to each other.

At an early period of the present session, the House of Representatives adopted a resolution, declaring in effect that it was inexpedient to pass laws annuling the bonds of matrimony, which I believe remains unrevoked, otherwise than by the passage of this bill. Hence it is reasonable to presume that those against whom such applications for legislative interposition, was contemplated, if they happened to have notice of them, were thrown completely off their guard and rested satisfied that no such legislation would be countenanced by that body, at the present session. Since the adoption of that resolution, an act has passed both branches of the Legislature, and has become a law, declaring the causes for which divorces shall be decreed by the courts, and prescribing the manner of proceeding in such cases. This act seems to me, to embrace all the ordinary causes for which divorces are usually demanded. It makes provision for hearing the parties, and gives those against whom causes of divorce are alleged, an opportunity of demanding legal and competent truth of such allegations.

If to the dissolution of a connection so important, by a decree of your courts, it is deemed proper to give the party accused an opportunity to be heard, and to guard against the danger of injustice, from an ex parte proceeding, why are those safe guards to fairness and justice less necessary, when the same result is to be produced by an act of legisla-

tion? Why not summon the individuals whose rights are to be effected by your acts? Why not give them an opportunity to cross examine the witnesses upon whose evidence their most important interests are to be decided, and upon which, in most cases, their future respectability and standing in society is to depend.

There is an intrinsic cruelty, as well as manifest injustice, in releasing a man from the solemn obligation entered into at the altar, to "love and cherish" a helpless and confiding woman, and at the same time to stigmatize her as unworthy to claim the performance of the contract, without even granting her the privileges secured by the constitution and laws of every free country, to persons accused of the most trivial offences, of being "informed of the nature and cause of the accusation" and of being heard by themselves and their counsel.

It is held by many whose opinions are entitled to respect, that the obligations contracted by husband and wife, on being united in marriage, are of that description which were intended to be protected by that provision of the Constitution of the United States, which prohibits to the several states, the enactment of any law "impairing the obligation of contracts;" but whether they constitute a *contract* within the meaning of the expression as used in the Constitution, or not, it must be conceded that the undertaking is of at least as high import to the parties, and of more interest to those connected with them, and to society in general, than any contract merely effecting pecuniary matters, and ought not therefore to be abrogated or "impaired," but upon the clearest evidence of necessity, and upon the fullest oppor-

tunity given, of thorough investigation in the presence of the parties or their specially authorized representatives.

The theory of our government teaches, that the most perfect security to liberty and to individual rights, is to be found in the distribution of its powers among three distinct bodies of magistracy, and the confinement of each within the sphere prescribed by the Constitution for its action. I submit then, that the concurrent exercise of the power to dissolve the bonds of matrimony, by the legislative and judicial departments, is a departure, and a dangerous one, from the principles of our government and ought to cease. If the powers conferred by law upon the judiciary, are found too limited, let them be enlarged; still securing to the parties implicated, the unalienable and invaluable right of defending themselves, and of demanding the production of legal and competent evidence against them, before sentence of divorce is pronounced.

I have heretofore given a reluctant approval to acts affecting individual cases of this kind, but more mature reflection and an examination of our statute books, in connection with this bill, satisfies me that too much facility and encouragement has been given to applications for legislative interposition in such cases, and that it will be more safe and more consistent with the principles of our government to leave them to judicial action, than to continue to legislate for each particular case.

JOHN CHAMBERS.

TO THE COUNCIL

JULY 6, 1845

From the Journal of the House of Representatives, p. 204

EXECUTIVE DEPARTMENT, IOWA CITY,
June 6th, 1845.

I return to the Council, in which it originated, the act, entitled—"An act to submit to the people the draft of a Constitution framed by the late Convention," with my objections to it.

The act of the Legislature, under the provisions of which the late Convention assembled, expressly reserves to the people, the right to vote for or against the Constitution, at the April election succeeding its formation; and the ordinary course would have been, to await the action of the people upon it, before presenting it to Congress, and asking admission into the Union; but the Convention did not deem it necessary to do so, and at the close of their labors adopted a memorial to Congress, asking to be received into the Union. This application for admission, before the people had determined whether they would adopt or reject the Constitution, though out of the usual course, was the less objectionable, because the Constitution put Congress in possession of the fact, that it was subject to be rejected, if such should be the pleasure of the qualified electors of the Territory, at the April election of the present year. That provision of the Constitution will be found in the sixth section of the thirteenth article in the following words: "This Constitution, together with whatever conditions may be made to the same by Congress, shall be ratified or rejected

by a vote of the qualified electors of this Territory, at the Township Elections in April next, in the manner prescribed by the act of the Legislative Assembly, providing for holding this Convention: *Provided, however*, that the General Assembly of this State may ratify or reject any conditions Congress may make to this Constitution after the first Monday in April next."

Congress did make provision for the admission of Iowa, by an act, entitled, "An act for the admission of the States of Iowa and Florida into the Union," in which will be found the following provision, "that it is made and declared to be a fundamental condition of the admission of the said State of Iowa into the Union, that so much of this act as relates to the said State of Iowa, shall be assented to by a majority of the qualified electors at their Township Elections, in the manner, and at the time prescribed in the sixth section of the thirteenth article of the Constitution adopted at Iowa City, the first day of November, Anno Domini eighteen hundred and forty-four, or by the Legislature of the said State." It will be seen that this provision of the act of Congress goes beyond the Constitution, in providing that the Legislature of the State may, as well as the qualified electors, assent to the provisions of that act; but it is difficult to comprehend how a Legislature of *the State* can assent to or reject terms of admission, the acceptance of which is "declared to be a fundamental condition," of our becoming a *State*.

The power to reject or accept the conditions upon which our entrance into the Union was made to depend, having been thus plainly presented to us, it is not easy to account

for the fact that no poll was opened or vote taken at the April election, for or against the ratification of the conditions upon which Congress had provided for our admission. Owing to this unfortunate oversight, and without appearing to be aware of their right to accept or reject those conditions by a direct vote at the April election, a question was raised among the people, whether the adoption of the Constitution would, as a necessary consequence, carry with it the adoption of the boundary for the new State, proposed by Congress; or, in other words, the people did not seem to understand that they possessed the same right to vote upon, and accept or reject the boundaries, that they had in reference to the Constitution itself, and this confusion in the public mind, "there is reason to believe, had much influence in producing the rejection of the Constitution."

This view presents an outline of the proceedings in relation to our effort to obtain admission into the Union; out of them has arisen a necessity for further legislation to carry out the previously expressed wish of the people to throw off the Territorial Government, or to ascertain whether that wish is still entertained.

I had the honor, at the commencement of your present session, in my Message to the two Houses, to suggest the course of legislation which I thought best calculated to give general satisfaction in relation to this matter, and which, if adopted, would have enabled us, if such had appeared to be the will of the majority, to present anew to Congress, at the commencement of the next session, and wish to be admitted as a member of the Union. Of that particular course, however, I am not at all tenacious. There is no

Constitutional provision or established usage which should restrain a Territorial Legislature from directing polls to be opened for the purpose of ascertaining the will of the constituent body in relation to the adoption or rejection of any proposition for forming a Constitution, or adopting it after it had been formed, or to decide upon the terms imposed by Congress for their admission, when that power has been reserved by the Constitution, or conceded by Congress. The right to so legislate being admitted, the propriety of resubmitting the Constitution to the people by whom it has been so recently rejected, is between the people and their representatives; and the justification of it can only be found in the acknowledged fact that a great, if not a decisive, influence was produced, resulting in the rejection of that instrument, by a supposed connection between it and the question of boundary.

The adoption or rejection of the boundary ought to have been decided at the April election by a direct vote upon the conditions imposed by Congress upon our admission, as directed both by the Constitution and the act of Congress. It remains yet to be settled in some way before we can gain admittance into the Union. The first Monday in April having passed, the Constitution "as it came from the Convention," if it is adopted at the August election, will permit the Legislature of the State to accept any conditions which Congress subsequently to that time, may impose upon our admission into the Union, but that provision will be inoperative as to the conditions imposed by the act of Congress above referred to, because it was enacted before the first Monday in April, and they must, therefore, if the act

remains in force, and effect is given to the Constitution, be ultimately met by a direct vote of the people.

The act under consideration declares in the eighth section, "that the admission of the State shall not be deemed complete until whatever conditions may be imposed by Congress shall be ratified by the people"—if the Constitution should be ratified at the August election, this provision of the act will be found to conflict with it. The people having failed to vote at the April election for or against the conditions upon which the act of Congress proposed to admit us, it would but be carrying into effect the provision of the Constitution, and of the act of Congress to allow the people to dispose of those conditions by a direct vote, at the same time that they are called upon to vote a second time for or against the adoption of the Constitution. Until that question is decided, we cannot become a State without the act of Congress referred to is repealed. I cannot, therefore, discover the propriety of withholding that question from the people. The Constitution provides for the submission of the two questions at the same election, and the neglect so to vote upon them has already given rise to much confusion.

The Constitution which this act provides for resubmitting to the people at the August election, has not assumed an obligatory force, and can only derive it from the adoption of the people; and although it may be a proper exercise of legislative authority to fix the time and provide the manner of bringing it before the people, it is not in my opinion competent to the legislative power to alter or amend it in any particular, so as to control its operations, if it should

be adopted by the people "as it came from the hands of the Convention." A direct attempt is made by this act to control several of its important provisions. The seventh section of the thirteenth article of the Constitution provides that "the first general election under this Constitution *shall be held* on the first Monday in August, next after the adoption of the Constitution by the people of the Territory. The eighth section of the act says that "*no election* for State officers shall be held under said Constitution if ratified at said election, until the admission of the State of Iowa is complete." Now if the Constitution "as it came from the hands of the Convention," is ratified by the people, at the August election, which will be the paramount law, the Constitution thus ratified, which says there shall be an election of State Officers on a certain day after its ratification by the people, or this act which attempts to abrogate that provision of the Constitution, by declaring that "no election of State Officers shall be held under said Constitution, if ratified, until the admission is complete?" This conflict between the Constitution and the Legislative act, would inevitably produce confusion, and if effect should be given to the act, when, and by what authority would the first general election under the Constitution be held? who would be authorized to declare the admission of the State of Iowa to be complete? Without such a power somewhere, and without a time fixed for holding the first general election under the Constitution, the organization of the State Government could not be effected, and we should probably be compelled to resort to the novel expedient of organizing a State Government by Territorial legislation, if perchance the Terri-

torial Legislature has not ceased to exist when "the admission of the State of Iowa was complete." From such a state of things nothing but inextricable confusion and difficulty can result. A critical examination and comparison of this act with the Constitution will expose other discrepancies of less importance; but those already stated forbid me to give effect to the act by my official approbation.

JOHN CHAMBERS.

TO THE COUNCIL

JUNE 7, 1845

From the Journal of the Council, p. 170

EXECUTIVE DEPARTMENT, June 7th, 1845.

I return to the Council, in which it originated, an act entitled "An act to provide for the better settling and adjudicating of the several titles set up to the Half Breed lands in the county of Lee," with my objections to it.

This act, if carried into effect, will change the general laws of land in relation to the title and evidence of title of the Half Breed Indians therein mentioned, and those claiming under them, and will exclude them from severally maintaining actions for the recovery of their undivided interests in the land in question.

The laws of every country affecting the rights of individuals, should be equal and uniform, and I am not able to discover any reason for making the rights, whatsoever they may be, of the claimants of the Half Breed lands, an exception to this rule, and am therefore constrained to withhold my official approval of this act. JOHN CHAMBERS.

SPECIAL MESSAGES

TO THE COUNCIL AND HOUSE OF REPRESENTATIVES

DECEMBER 9, 1841

From the Journal of the Council, p. 20

EXECUTIVE OFFICE, IOWA TERRITORY, Dec. 9, 1841.

To the Council and House of Representatives:

Gentlemen:—An application to execute deeds of conveyance to some of the purchasers of lots in Iowa City, has drawn my attention to the several legislative acts which relate to that subject; and upon a comparison of their provisions, I find that by the 3d section of the act of the 17th of January, 1840, entitled "An act to provide for the execution of title deeds to lots in the city of Iowa," it is provided, that "whenever the purchase money shall be paid up in full, for the purchase of any lot or lots in the city of Iowa, and as soon as the title to said lots is bona fide obtained from the General Government, the acting Commissioner shall make out the requisite title deeds to the purchaser or purchasers for the same, in conformity with the certificate or purchase to be signed by the Governor and the seal of the Territory affixed thereto, and countersigned and acknowledged by the said acting Commissioner," (see page 111, acts 1840.) And by the 6th section of the act of 24th of July, 1840, entitled "An act directing the valuation and

sale of lots in Iowa City, and to provide for executing deeds for the same," it is enacted "that whenever full payment shall have been made for any lot or lots in Iowa City, the acting Commissioner of public buildings shall give to the person or persons entitled thereto, a certificate of final payment for the same;" and by the 7th section of the same act, it is provided "that whenever any certificate of final payment for lots in Iowa City shall be presented to the Secretary of the Territory, he shall file the same in his office and make out a deed of conveyance in accordance with such certificate, which deed of conveyance shall be sealed with the seal of the Territory, signed by the Governor and countersigned by the Secretary of the Territory, and when thus executed, shall convey to the grantee a title in fee simple to the lots therein described;" and by the 8th section of that act, it is made the duty "of the Secretary of the Territory to keep a record in his office of all deeds of conveyance *made out by him* under the provisions of this act." It repeals "all acts and parts of acts that are in contravention" of its provisions, (see page 6, acts of July session 1840.)

By the 17th section of the act of January 10th, 1841, entitled "an act providing for the appointment of a superintendent of public building at Iowa City, and the appointment of a Territorial agent, and for other purposes," it is provided "that the duties required by the third section of "an act entitled an act to provide for the execution of title deeds to lots in Iowa City, and for other purposes, shall hereafter be performed by the Territorial agent," &c. (See page 61, acts of 1840–41.)

The effect of this last act is to revive the third section of the act of the 17th, January 1840, requiring the Superintendent (or now, in his stead, the Territorial agent) upon the receipt of full payment for any lot, to make out and countersign a deed of conveyance for it, to the purchaser, to be signed by the Governor, and the revival of that section in effect defeats the provision of the act of July, 1840, requiring the certificates of payment to be filed in the office of the Secretary of the Territory, and the deeds *to be made out by him* to be recorded in his office. It seems probable that the revival of the third section of the act of January 1840, was made without adverting to the provisions of the act of July of that year, and as it removes that salutary check upon the agent which requires his certificates of payment to be filed with another officer of the Government, and leaves the holders of deeds for lots in this city without any provision for recording them, I would respectfully submit to your consideration, the propriety of such a modification of these laws, as will restore the provisions of the act of July 1840, or require the filing of the certificates of payment in some one of the public offices, other than that from which they emanate, and direct the title deeds to be recorded.

Respectfully, Your ob't servant,

JOHN CHAMBERS.

ENDORSEMENT OF A BILL

MAY 20, 1845

From the Journal of the House of Representatives, p. 95

Mr. Munger, from the Committee on Enrollments reported back to the House,

"An act, to repeal the Charter of the Miners' Bank of Dubuque, and to provide for winding up the affairs of the same," with the following endorsement thereon:

"This Bill received at the Executive Office on the 15th of May 1845, and retained until the 20th, and then returned to the Committee from which it was received."

(Signed,) JOHN CHAMBERS,
Governor.

PROCLAMATIONS

TO PREVENT TRESPASSING UPON CERTAIN LANDS

MAY 11, 1842

From the Iowa City Standard, Vol. II, No. 25, May 21, 1842

By the Acting Governor of Iowa Territory

WHEREAS it has been represented to me that many of the citizens of this Territory, and of the adjoining States, under the impression made by certain letters which have appeared in the Burlington and other papers, that that portion of Iowa Territory south of the Des Moines river has been ceded to the United States by the Iowa Indians, and now belongs to the Government, have unwarrantably crossed over into it with a view of settling there: I do hereby warn them that in so doing they are violating the laws of the Government for the protection of the Indians, and command them to refrain from all attempts to locate there. And as it has been also represented to me by the Agent of the Sacs and Foxes that they go over despite of his remonstrance against it, I have this day, by virtue of the power in me vested as acting Governor of Iowa Territory, and Superintendent of Indian Affairs, and authority from the Department of War, with a view to preserve peace on the frontier, made a requisition for certain troops, promptly to remove all intruders from the Indian Territory. And I would further notify all concerned, that all persons going

into that country save those legally authorised so to do, will be looked upon as intruders, and driven out by force.

O. H. W. STULL,[1]
Acting Governor,
and Superintendent of Indian Affairs.

EXECUTIVE OFFICE, BURLINGTON, I. T.
May 11th, 1842.

DECLARING THE VOTE ON THE QUESTION OF A CONVENTION

MAY 1, 1844

From the Iowa Standard, Vol. IV, No. 20, May 16, 1844

RETURNS having been made to the office of the Secretary of the Territory, of the votes taken in all the organized counties thereof, except Washington, Clayton and Davis, at the times and places of holding the Township Elections in the month of April last, in conformity to the provisions of an act of the Legislative Assembly entitled "an act to provide for the expression of the opinion of the people of the Territory of Iowa upon the subject of the formation of a State Constitution for the State of Iowa," approved 12th February, 1844; and the said votes so returned having been counted in the presence of the undersigned, Governor of the said Territory, and examined and compared by him. It is hereby declared and made known (in compliance with the spirit and intention of the said act) that there were given, in the counties from which returns have been received, six

[1]Mr. Stull was the Secretary of the Territory who, for the time being, was acting as Governor.—The Editor.

thousand seven hundred and nineteen votes, for a Convention, and three thousand nine hundred and seventy four votes against it, making a majority of two thousand seven hundred and forty-five votes in those counties in favor of a Convention, and as that majority exceeds by upwards of a thousand the aggregate votes cast in the said counties of Washington and Clayton at the election held in October last for a delegate to Congress, and Davis being one of the recent organised counties, it is manifest (in the absence of the returns from the three counties aforesaid,) that there is a large majority of the legal votes in the Territory in favor of a Convention. It will therefore become the duty of all officers and persons concerned in making preparation for and conducting the general election to be held in the month of August next, to conform to the provisions of the Legislative assembly aforesaid, for the election of members of a Convention to form a State Constitution for Iowa.

In testimony whereof I have caused the seal of
L. S. the said Territory to be hereunto affixed.

Done at the city of Burlington this first day of May, in the year 1844.

JOHN CHAMBERS.

ON THANKSGIVING

OCTOBER 12, 1844

From the Iowa Standard, Vol. IV, No. 48, Nov. 28, 1844

Territory of Iowa:

At the request of many of my Fellow Citizens, I have deemed it proper to recommend that Thursday, the 12th day of December next, be observed throughout the Terri-

tory, as a day of general Thanksgiving to Almighty God for the many and great blessings we enjoy as a people and individually, and of prayer and supplication for the continuance of his mercy and goodness towards us; and for the prosperity, happiness and ultimate salvation of the American people.

We are told that, "righteousness exalteth a nation," and are taught by divine authority that the voice of thanksgiving and prayer is acceptable to our Father in Heaven. Let us then, on the day designated, unite our voices, in the humble hope that they will reach the Throne of Grace and obtain for us a continuation and increase of blessings.

Done at the Executive Office, in the city of Bur-
SEAL lington, this twelfth day of October, in the year of our Lord, 1844.

JOHN CHAMBERS.

By the Governor:

S. J. BURR, Secretary of the Territory.

DECLARING THE VOTE ON A STATE CONSTITUTION

MAY 9, 1845

From the Iowa Capitol Reporter, Vol, IV, No. 14, May 10, 1845

By an act of the Legislative Assembly entitled "An Act to provide for the expression of the opinion of the people of the Territory of Iowa, upon the subject of the formation of a State Constitution for the State of Iowa;" approved 12th Feb'y, 1844, it is made the duty of the Secretary of the Territory to open and count in the presence of the Governor, the votes given at the April election of the present year,

for and against the Constitution prepared by the Convention, which should be elected under the provisions of the act, and thereupon the Governor is required to make known by proclamation, the result of the said vote—and the Secretary having opened and counted in the presence of the undersigned, Governor of the said Territory, the returns of all the votes given for and against the Constitution in all the organized counties, except Davis and Appanoose, from which no returns were received, there is found to be an aggregate majority of one thousand and sixty-two votes against the Constitution, and the Secretary reports from the information of the members representing the counties of Davis and Appanoose in the Legislature, that they gave an aggregate majority of sixty-eight for the Constitution, but whether this be strictly correct or not, it is well known that the whole number of voters in those counties is not equal to the majority cast against the Constitution in those from which returns have been received. Therefore,

I John Chambers, Governor of the said Territory do declare and make known that a majority of the legal voters have voted against the said Constitution and that it is rejected.

In Testimony Whereof, I have caused the Seal of
SEAL the Territory, to be hereunto affixed.

Done at Iowa City, this 9th day of May in the year 1845.

JOHN CHAMBERS.

S. J. BURR, Secretary of Iowa Territory.

GOVERNOR JAMES CLARKE

BIOGRAPHICAL SKETCH

James Clarke, the third and last Governor of the Territory of Iowa, was born in Ligonier Valley, Westmoreland County, Pennsylvania, on July 5, 1812. He left home at an early age, and learned the printer's trade. As a printer he sought and found employment in several places including Harrisburg, Pennsylvania. In 1836 he decided to go West. At St. Louis he secured a position in the office of the *Missouri Republican.*

It was about this time that the original Territory of Wisconsin was established by Congress. Mr. Clarke was attracted by the opportunities afforded by this new Territory. With Mr. John B. Russell he joined in the publication of a newspaper (the *Belmont Gazette*) at Belmont, the newly appointed capital of Wisconsin. This was in the fall of 1836. When the First Legislative Assembly of the Territory met in October, James Clarke was named as the printer for the Territory. When it was decided to remove the capital to Burlington (Iowa) Mr. Clarke hastened to the new seat of government west of the Mississippi, and founded the *Wisconsin Territorial Gazette and Burlington Advertizer.*

Prior to the establishment of the Territory of Iowa in 1838, Mr. Clarke was appointed Territorial Librarian by Governor Dodge. Upon the death of Wm. B. Conway (first Secretary of the Territory of Iowa) President Van Buren appointed Mr. Clarke Secretary of the Territory of

Iowa. In 1844 he became Mayor of Burlington; and during the same year he served as a delegate to the First Constitutional Convention which convened at Iowa City. Upon the removal of Chambers by President Polk, Mr. Clarke was appointed to the office of Governor of the Territory of Iowa, which position he held from November, 1845, to December, 1846.

In 1840 he married Christiana H. Dodge, a daughter of Henry Dodge, the first Governor of the original Territory of Wisconsin. In 1850, at the age of thirty-eight, Mr. Clarke died a victim of the cholera plague. One son and his wife had met a similar fate a few weeks before the death of the ex-Governor.

Bibliographical Note.—*Iowa Historical Record*, Vol. IV, p. 1. *Annals of Iowa*, 3d Series, Vol. IV, p. 482. *Annals of Iowa*, 1st Series, Vol. V, p. 786; Vol. VII, p. 320.

FIRST ANNUAL MESSAGE

DECEMBER 3, 1845

From the Journal of the Council, p. 11

Gentlemen of the Council and of the House of Representatives:

With less than a fortnight's notice of my appointment to the discharge of the Executive duties, during the greater portion of which brief period I have been prostrated by sickness, I find myself called upon, as a co-ordinate branch of the Legislature, to communicate with you in relation to such subjects, both of a local and general character, as in my judgment are deemed to have a bearing upon the common interests of the people of Iowa. Deprived, as I thus have been, of the time and opportunity essential to the proper discharge of this duty—cut off from all opportunity of investigation into past legislation, so as to be enabled to recommend remedial action where defects might be found to exist—denied, even, it may be said, time sufficient for common reflection—I have great reason to fear that many subjects will be passed over in this communication, which, upon a more ample survey of the public wants and requirements, would have been pressed upon your attention. The regret, however, which I feel in anticipation of such a discovery, is materially abated by the knowledge that your action can in no wise be effected by the omission. Happily for the people, their Representatives in the discharge of

their duties as Legislators, are not necessarily governed by Executive recommendations; neither are they precluded from considering and acting upon any subject by Executive omission.

You assemble, Gentlemen, under auspicious circumstances. Peace pervades the land and plenty every where abounds. The earth, during the season just past, has been unusually abundant in its yield, both externally and internally. From its face, the husbandman has gathered bountiful crops, which he is enabled to dispose of at something more than a living profit; while more than ordinary success has attended the labors of that adventurous, and not inconsiderable portion of our citizens, whose avocation it is to search for, and bring to light, the rich treasures which are concealed beneath. Labor, though still commanding less than could be desired, finds ready employment; and industry, plied with ordinary skill and perseverance, fails not of securing the necessaries, and even the comforts of life. These are blessings of inestimable value; but I much regret that, in enumerating them, I am compelled to omit that most important of all blessings which can be vouchsafed to any people—the prevalence of general health. The people of Iowa have suffered severely from sickness the past season; nor is it any consolation to them to know that their fellow citizens in all the western States have been similarly visited, except so far as it establishes the fact that there is nothing in our soil or climate *peculiarly* favorable to disease. Bowing in humble submission to the affliction, our duty would remain but half discharged, did we forget to return our grateful and fervent thanks to that Providence which rules

over all things, and from which all good emanates, for the manifold blessings we have been permitted to enjoy.

Since your adjournment in June last, a most important question has been decided by the people, the effect of which is to throw us back where we originally commenced in our efforts to effect a change in the form of government under which we at present live, I allude to the rejection of the Constitution at the August election. This result, however, brought about, in my judgment, is one greatly to be deplored. That misrepresentation and mystification had much to do in effecting it, there can be no doubt; still it stands as the recorded judgment of the people; and to that judgment, until the people themselves reverse the decree, it is our duty to submit. Having from absence and indisposition, been denied all opportunity of ascertaining public feeling at present in relation to this subject, I do not feel prepared to urge upon the Legislature any particular course of conduct to be pursued. The members themselves come fresh from the people, and are presumed to be advised of the wishes of their constituents as to what action, if any, should be had in reference to the question. Being thus advised, they will doubtless adopt such measures as are called for by the public sentiment, and adhering, as I do, to the opinion long entertained and frequently expressed, that the prosperity of Iowa would be greatly advanced by her speedy incorporation into the Union as a State, it affords me great pleasure to assure you that whatever steps may be taken by you, looking to that desirable result, and in my judgment calculated to effect it, will receive my hearty co-operation.

The increase in the population of Iowa within the last year may be assumed with great confidence to have exceeded that of any former year. The rapidity with which settlements have extended back is truly astonishing. From the narrow strip of country purchased in 1832, some forty miles in width, extending up and down the Mississippi, and upon which the first settlements were made, we have seen our Territory extend itself on the West, step by step, until its limits approach to within a short distance of the Missouri river, if, indeed, that point be not already gained.

In accordance with the stipulations contained in the treaty negotiated by my predecessor in office in 1842, the Sac and Fox Indians, early in the past fall, quietly and peaceably abandoned the whole of the country owned and occupied by them in Iowa, and proceeded to the new home provided for them by the government, lying South and West of the Missouri. A vast country, much of which is described by those who have been over it as exceedingly valuable, is thrown open to settlement; emigrants are already seeking it; and in a year from the present time, judging the future by the past, a population amounting to many thousands may be expected to be scattered over its face. In view of this reasonable anticipation, I respectfully recommend the division of the newly acquired district into counties of such size as shall comport with the judgment of the Legislature, to be attached to the counties most contiguous to them which are organized. It will probably be found too, upon inquiry, that some of the counties at present laid out, but not yet organized contain inhabitants enough within their limits to support county governments of their own; and if so, provision should be made for their speedy organization.

While alluding to the subject of the extension of our organized Territorial limits, it is proper that I should refer to the failure of the attempt made by the government in August last to purchase from the Winnebagoes the country at present occupied by them, known as the "Neutral Ground;" and, in the same connexion, also make mention of the recent visit of a delegation of Pottawatamie chiefs to Washington for the avowed purpose of entering into negotiations with the government for the relinquishment of their title to all the lands belonging to them lying within our borders. The Winnebagoes, it would seem, entertain an insuperable objection to removing beyond the Missouri river, the region designated as their future residence in all the propositions of purchase which have heretofore been submitted to them by the government. Three several attempts to treat have been made within as many years, and all attended with equally ill success, the chief obstacle upon each occasion being the one already alluded to. The Indians are not understood to be particularly wedded to the country now inhabited by them; but having ever resided in the North, their feelings and prejudices are all against emigrating South. Could a new home be provided for them in the North, I have good reason to believe that little or no difficulty would be experienced in inducing them to remove to it; but until some step of the kind is taken all our efforts to extinguish the Winnebago title to their lands may be expected to result in failure.—The Sioux nation of Indians own a vast and extensive region of country bordering on the Mississippi, and running up near to its head waters, a portion of which, sufficiently extensive for the Winnebagoes

to hunt and reside upon, it is believed the government might obtain at a comparatively trifling expenditure. The aversion of the Indians to going South being well known to those who exercise the control of the Indian Department, may we not look for, and should we not solicit a change of policy in this particular? The subject being one of the first importance to the people of Iowa at large, but more especially that portion of them who reside in the counties bordering on the Indian lands, some expression of the views entertained by the Legislature in relation to it would seem to be called for. The result of the visit of the Pottawatamie delegation to Washington has not yet transpired, but I entertain strong hopes that it will prove to be all we desire.

The question of boundary between the State of Missouri and this Territory still remains unsettled; but I am happy to inform you that no collision of a serious character has taken place in consequence of the dispute since your adjournment. The continuance of this amicable state of things is greatly to be desired. While no conceivable good could possibly result to the claim of either party from rupture and open conflict, much evil would inevitably ensue to both. As one of the parties to the dispute, however, it is our duty to lend all our assistance in furthering the speedy adjustment of the question in such manner as may be agreed upon; and as Missouri has indicated her willingness to submit the question to the decision of the Judicial tribunals of the country, I know of no better course to pursue than that recommended by my predecessor, in one of his latest official communications to the Legislature, viz: to memorialize Congress for the passage of a law which will enable the Terri-

tory to go into the Supreme Court as a party in the case. The absence of sovereignty, it is held by those who have investigated the subject, cuts us off from the privilege at present. True, the issue can at once be made up as soon as we are admitted as a State; but should Congress respond favorably to our request at its present session, it is probable the question would be finally put to rest even while we remain a Territory.

A subject of deep importance to a large and enterprising portion of our citizens, and one in relation to which the Legislature should not fail to speak out, is the disposition by the general government of the mineral lands lying in this Territory and elsewhere. The system which at present prevails of leasing these lands, is justly obnoxious to those engaged in the uncertain occupation of mining, and should be abolished at the earliest possible day. Unlike some of the despotic establishments of the old world, where excess of tribute is extorted from the people under almost every imaginable plea, in this country we have a government which aims at the happiness of the governed; and when this happiness is most equally and most generally diffused, then may the government be said to have best performed the object for which it was instituted—then is it strongest. It would be a gross perversion of the spirit of our institutions were the government, as proprietor of our vast landed domain, to refuse to sell any portion of such domain to individual purchasers; but, transforming itself into a grasping landlord, would require of every settler who might go upon the lands and cultivate them, the payment of a certain per cent upon all the products raised by him, as rent. And

yet, such is precisely the operation of the system now pursued in relation to the mineral lands; the government not only refuses to relinquish its interest in them, but it extorts a heavy tax from all who work them. Instead of aiding and encouraging the enterprise of the citizen, the effect of the policy is to cripple his energies and palsy his industry. I conceive the whole system to be eminently unjust in its bearing upon a large number of the inhabitants of this Territory, and hope soon to have the pleasure of witnessing its overthrow. It is the opinion of intelligent men who have had opportunities of advising themselves on the subject, that the labor employed in the business of mining is worse paid for, in the aggregate, than that employed in any other branch of industry. Men toil for years frequently, without meeting with the slightest encouragement; and if, in the end, success crowns their perseverance, the government, like a hard task-master, immediately steps in and wrests from them such a portion of their hard earnings as it may suit its convenience to demand. The best course, undoubtedly—best for the government, and best for the miner—would be to sell the lands as other lands are sold, varying only in the particulars of quantity and price, which might easily be regulated to the satisfaction of all. An expression of opinion by you, Gentlemen, on this important subject, at the present time, could scarcely fail of being attended with salutary results, particularly, as it is understood, a revision and modification of the system will be attempted this winter.

The improvement, by slackwater or otherwise, of that most beautiful of all rivers, the Desmoins, is a subject in which deep interest is felt by our fellow citizens, residing in

the Western and Southern counties. Coursing, as it does, through a very fertile and densely populated portion of the Territory, this stream once rendered susceptible of steam navigation, would soon become the thoroughfare for a vast amount of inland trade. The practicability of so improving it is generally conceded; but being destitute ourselves of the means necessary to its accomplishment, the question at once presents itself, "how, and at whose expense, is the work to be done?" At present we have but one resource to turn to, and that is the general government. Grants of lands have been made in several instances by Congress to works of infinitely less importance; and for any reasonable donation of this kind to the improvement in question the government might safely calculate upon being speedily reimbursed, in the increase of its receipts from the lands lying contiguous to the river. A memorial to Congress, setting forth the subject in its proper light, might possibly receive a favorable reception at the hands of that body. Whether or not such a memorial shall be adopted, is for you to say.

The rapid accumulation of the public debt of the Territory is beginning to attract the attention of the people, who, as the period approaches at which they expect to be called on to support the expenses of a state government, naturally seek to advise themselves of the extent of the burthens they are about to assume. That our liabilities, with our legislative and judicial expenses borne by the general government, should have reached their present aggregate, is truly unaccountable. What is past, however, cannot be repaired; we can only guard against the augmenta-

tion of the debt in future. To do this effectually, it will be necessary to institute a more rigid system of enquiry and investigation into the justness and legality of claims brought against the Territory than has heretofore prevailed. It will also be found, upon examination, that under our laws there are some items of expenditure chargeable to this fund which might be either diminished, or totally done away with, without serious detriment to the public interests; and in all such cases, I take it for granted, the proper corrective will be applied. If possible, also, some measures should be adopted to ensure the more regular payment of the Territorial tax into the treasury by the county collectors, much delay and irregularity in this particular having heretofore prevailed.

The reports of the Auditor of Public Accounts, Commissioner of Public Buildings, and Warden of the Penitentiary, not being yet before me, I am unable to communicate to the Legislature any information in relation to those subjects which it is not already in possession of. These documents will doubtless be forthcoming at the proper time; and at a day early enough to admit of such action in reference to them as in your judgment will best advance the public interests.

The evils of overlegislation are so generally acknowledged, that any attempt by me to impress the important truth upon your minds, would justly be looked upon as supererogation. At the same time that we concede the evil, however, we have not avoided running into it; for perhaps no community ever suffered more severely from the cause in question, than have the people of Iowa.—Stability in the laws (presuming

them to be wisely framed) is of the utmost importance to those for whose benefit they were enacted; but with us, few enactments are permitted to remain long enough on the statute book to permit their wisdom to be tested. The magnitude of the evil is felt and complained of by the public; and I should feel that part of my duty had been omitted, did I pass by the subject without, in some manner, alluding to it. In view of our admission into the Union as a State at an early period, the fewer the changes made in our statute book, the better. Acts of pernicious tendency, it is true, should not be permitted to remain in existence after being tested and condemned by time; but the point to be avoided is, legislation for legislation's sake. I trust and believe that the Legislature will be found to entertain views on this subject similar to my own; and that, animated by wise counsels and patriotic considerations, it will limit its action to such subjects only as are of pressing importance, and are conceded to require the interposition of the law.

Economy in the expenditures of the fund set apart by Congress for the Legislative expenses of Iowa is of the first importance, and cannot be too rigidly practised. The appropriation being amply sufficient, as I conceive it to be, after paying off all the arrearages of the May session, to defray the expenses of a session of such duration as the public wants require, we should incur a heavy load of responsibility indeed, were we to contract an excess of liabilities, especially as such excess would inevitably fall upon the Territorial treasury, and would thus be made to swell the load of debt, already sufficiently large, which the people will be required to assume upon the organization of a State Government.

I avail myself of the opportunity to say, in conclusion, that it will afford me great pleasure to co-operate with the Legislature in all measures calculated to exert a favorable influence upon the destinies of our Territory, and the happiness of its people. Uniting, as we undoubtedly shall, in our efforts to effect so desirable a result, my sincere prayer is that we may not be disappointed in our anticipation of the effect of our works.

JAMES CLARKE.

DECEMBER 3, 1845.

SECOND ANNUAL MESSAGE

DECEMBER 2, 1846.

From the Journal of the House of Representatives, p. 10

Gentlemen of the Senate, and of the House of Representatives:

Of the many wise features of our excellent system of government, there are none more worthy of admiration than the mode provided, by the Constitution, for the introduction of new States into the Federal Union. While other countries have resorted to force and violence to enlarge their possessions and extend their sway, it has been reserved for the United States to achieve these results by a policy eminently simple and pacific. Under this policy infant settlements have been nursed, territories established, and sovereignties finally organized, until a greater number of States than were originally embraced within the confederacy have been added to the Union, each imparting additional vigor and strength to the parent government. At the present time we have an illustration of the wonder-working results of this influence in the history of events within our own limits. In a period of eight years, under the fostering protection of the general government, Iowa, as a territory, has gone on to increase in wealth, population, and the development of her resources, until a majority of her citizens have become impressed with the conviction that it is their duty to establish and sustain a

government of their own. They have accordingly adopted a Constitution, and taken other necessary preliminary steps looking to a state organization; and nothing remains to complete the admission of the State into the Union but a compliance, by Congress, with the few and simple forms rendered necessary by the Constitution and by usage. With a full knowledge of the pecuniary sacrifices involved in the change, it has been made; and sensible of the extent and character of the new obligations which the support of a State government could not fail to impose, they have been voluntarily and cheerfully assumed. Having thus given the highest possible evidence of her attachment to the Union, Iowa will henceforth take her place with her sisters as a member of the confederacy, exercising her proper weight in the administration of the government, and receiving equal protection and favor with the older States.

Upon this civil revolution in our form of government, effected, not through coercion, but by the silent operation of public opinion, I beg leave most respectfully to congratulate the members of the State Legislature. With a constitution, republican in its character, and containing guards against improvidence and restrictions upon class legislation, we may hope to escape many of the abuses and evils which of late years have brought ruin and blight upon other portions of our common country. The prevalence of wise and patriotic counsels, such as I am sure will animate those connected with the several branches of the government, is all that is necessary to a happy commencement of our existence as a State. At such a time it becomes us not to rely solely upon human effort; the aid of Him, in whom rests the perfection

of all wisdom, should be sought, and a continuance of His favor to us as a people invoked.

I regret that it is not in my power to congratulate you upon the continuance of friendly relations between the United States and all other governments, such as existed at the time of my last annual communication to the Territorial Legislature. Since that period a termination has been put to the good understanding previously existing between our own government and the Republic of Mexico, under circumstances which must relieve the former from all responsibility for the consequences which may ensue. For the first time, within thirty years, our country finds itself an unwilling party to a war, rendered necessary to repel invasion, to enforce a compliance with violated treaty obligations, and to resent multiplied and aggravated instances of insult to our flag aud injury to our commerce. While we cannot but lament the occurrence of any event calculated to interrupt the peace of the world, and especially that hostilities should be permitted to exist between sister republics of the same continent, it is peculiarly gratifying to our national pride to witness the readiness with which the citizen soldiery of America have responded to the call made upon them for their services, and the gallant manner in which, wherever the opportunity has been presented, they have sustained their own and their country's honor. The additional satisfaction is also ours of knowing that the American arms, although employed against superior forces, have thus far been completely victorious. Mexico having rejected the overtures made by our government since the commencement of hostilities for the renewal of negotiations, with the view

of effecting an amicable adjustment of the difficulties between the two countries, a rigorous prosecution of the war is believed to be the course required by true policy, and best calculated to secure a speedy and permanent peace. In a cause so just I cannot doubt that the nation will be found united in furnishing all the aid, of whatever description, which may be found necessary; and it gratifies me to be able to state that Iowa has already evinced her willingness to contribute more than her proportionate share of men to the common defence. Under an act of Congress, authorizing the acceptance by the President of the services of fifty thousand volunteers, a requisition was made upon the Territory, in the early part of summer, for one regiment of volunteer infantry, to be raised and held in readiness for service whenever required. This force was enrolled and organized into companies in an unusually short period of time, and at present stands reported to the President as ready for orders. Should it be called into the field, I have every confidence that the honor and reputation of the State will be creditably sustained.

One of the most important subjects, demanding legislative interposition, at the present session, will be that of providing ways and means for the support of the State government. In the discharge of a task so delicate, and of such magnitude in its consequences, I cannot but express a hope that resort to temporary measures of relief may be avoided, and that the responsibility may be fairly and fully met, by the establishment of a permanent revenue system; which, after the first year, will secure to the treasury an annual income adequate to the public wants. Such a step

is believed to be called for by considerations of sound policy, and justified by the events which render it necessary. It would be an unwarrantable imputation upon the intelligence of the people, to suppose that they omitted to inform themselves of the burthens the support of a State government would impose upon them when they ratified the Constitution; and to question their willingness now to assume those burthens, might well be regarded as a stigma upon their patriotism.

The details of such a system properly belong to the legislative branch of government; but in maturing them, it is respectfully suggested that a wide field exists for reform and improvement. The revenue laws at present in existence are radically defective, and call for amendment. It cannot be denied that under the Territorial organization, with all our legislative, executive and judicial expenses borne by the General Government, a system of taxation exceeded for severity by but few of the States of the Union has prevailed. While these excessive levies have been submitted to, the necessity for their imposition has been denied. The time is believed to be at hand when the reform in this particular, looked for in vain for so long a period, is imperiously demanded by public opinion; and I confidently anticipate the adoption of such measures, by the Legislature, as will correct the evil in future. The necessity for a State Tax, equal to the support of an economical administration of the government, such as is contemplated by the Constitution, is immediate and obvious; but I should regret to be forced to the conclusion that the burthens of the people must be thereby necessarily increased to the amount of such

new levy. Under such an accumulated load of obligation their energies would sink, and enterprise and industry might be expected to take their flight to less expensive and better governed lands. I cannot permit myself to doubt, that if the subject is approached with an eye singly to the public interests, a reduction can be made in the county and township rates, without in any degree impairing the usefulness of these corporations, equal to any amount of revenue which it may become necessary to collect for State purposes. The abolition of all useless offices, and a reduction of the fees of all officers to the lowest standard which will admit of a fair equivalent for services rendered, will do something towards effecting this result, and is most earnestly recommended. A further reduction of the county machinery might be made, and a corresponding saving be effected to the people, by uniting two or more of such of the offices as cannot be dispensed with, and devolving the discharge of their duties upon a single person. Where this can be done without detriment to the public interests, I conceive it to be a highly proper reform, called for by considerations of economy, and desirable as a check upon the thirst for public station which is known to prevail in Iowa in common with other portions of the country. Offices, under our government, are created for the people, and not for the benefit of the incumbents; and to multiply them beyond the number ascertained to be absolutely necessary, is a departure from that simplicity which was originally intended to enter into our institutions. It is also a subject well worthy the consideration of the Legislature, whether officers in the receipt of fees, such as sheriffs, clerks, etc., should not be required to transact the

county business appertaining to their respective offices free of charge; and the expediency of diminishing, or, should the public exigencies be deemed of a character requiring such a step, of entirely abolishing the per diem allowance at present authorized to be paid to grand jurors, is respectfully submitted. As affecting the county treasuries, the several measures of retrenchment recommended cannot fail to exercise a most favorable influence, if carried into effect; and in urging them upon the attention of the Legislature, I look not for justification to the example of other States in which similar reforms have been gone into, but to the circumstances by which we are surrounded, and the manifest necessity which exists of limiting the public expenditures to the ability of the people to meet them.

The laws in relation to the assessment of real and personal property are believed to be imperfect, and will demand consideration at the hands of the Legislature, in the general modification of the existing revenue system which it is apprehended will take place. It is objected, that in practice, they operate unequally and unjustly in the want of some rule to which uniformity may be approximated in the valuation of property; and these complaints are frequently sustained by evidence showing them to be well grounded. Although led to believe that the evils complained of are as much owing to the selection of incompetent and improper agents to execute the laws, as to any inherent defectiveness of the system itself, I entertain the hope that it will be in the power of the Legislature to apply at least a partial remedy. The receipts from the personal property tax, with legal enactments which will enable the assessors to make

true and correct assessments, can, I have reason to believe, be materially augmented, without any increase in the existing rates; but in the absence of further legislative provision on the subject, no addition to the revenue need be looked for from this source, and real estate must continue to submit to undue taxation. Many proper objects of taxation, not intended to be exempted, but which now escape through the looseness of the law, might also be made to contribute their proportionate share to the support of the State. The imposition of a reasonable tax upon each suit brought in the several District Courts of the State, to be paid into the county or State treasuries, as may be deemed to be most judicious, is a measure which I feel myself called upon to urge on your attention, as furnishing a legitimate and reliable source of revenue.

But while by these, and similar reforms, provisions may be made for the support of the State government in future, without any material augmentation of the public burthens, we cannot be insensible to the pressing necessities of the present. We enter upon our new existence as a State with an empty treasury, which cannot be replenished before the expiration of a year, and heir to a debt of some twenty thousand dollars. The payment of the debt, if deemed expedient, may be postponed to a more convenient period, but the immediate and accruing expenses of the government must be met. I know of no other way in which this can be done than by the negotiation of a loan, and therefore recommend that immediate steps be taken by the Legislature toward effecting that object. The sale of the State bonds, to the amount of thirty thousand dollars, would furnish a

sufficiency of means to cover all actual and necessary expenses up to January, 1848; and twenty thousand more added would enable the State to pay off the existing territorial debt, all of which is due to domestic creditors. With such guarantees in favor of the regular payment of the interest as should accompany any law authorizing a loan, and as it will be in the power of the Legislature to furnish, the successful termination of any negotiation authorized, upon terms favorable to the State, may be reasonably anticipated. Free, comparatively, from debt, with a constitutional limitation upon the debt creating power; great in all the elements of wealth, agricultural, mineral and commercial, Iowa, even at the commencement of her career, cannot but occupy a position highly favorable to the establishment of her credit; and the maintenance of this credit, under all circumstances, should be a chief object with those entrusted with the administration of her affairs. Should the Legislature coincide with me in the opinion that a sale of the State bonds is the course required by true policy, it will be necessary to authorize the appointment of an agent to conduct the negotiations; but I must repeat my conviction that it would be folly to attempt a sale of such bonds, without the adoption of such a course on the part of the State in advance, as will do away with all doubts which may exist in the minds of capitalists as to the regular payment of the interest.

Under an act of Congress, approved March 3d, 1845, all the lands lying in Iowa, reserved for the use of schools, are granted to the State. The aggregate in acres, of this grant, in the counties already established by law, is as follows:

	ACRES
Lee county, (including 3,308 acres granted by the act of Aug. 23d, 1842, for the use of the Half Breed tract)	9,782
Van Buren county,	8,908
Davis "	9,376
Appanoose "	10,240
Wayne "	10,240
Decatur "	10,240
Des Moines "	7,349
Henry "	7,680
Jefferson "	7,680
Wappello "	7,577
Monroe "	7,680
Lucas "	9,600
Clarke "	9,600
Louisa "	7,304
Washington "	10,240
Keokuk "	10,240
Mahaska "	10,207
Marion "	10,240
Warren "	7,680
Madison "	10,240
Muscatine "	9,024
Scott "	8,160
Cedar "	10,240
Johnson "	10,700
Iowa "	10,240
Powashiek "	10,240
Jasper "	12,800

	ACRES.
Polk county	12,800
Dallas "	10,240
Clinton "	12,800
Jackson "	11,220
Jones "	10,240
Linn "	12,800
Benton "	12,800
Tama "	12,800
Marshall "	10,240
Story "	10,240
Boone "	10,240
Dubuque "	11,060
Delaware "	10,240
Buchanan "	10,240
Black Hawk "	10,240
Clayton "	14,000
Fayette "	6,400
Total	442,107

The estimated quantity of school land, in that portion of the State not yet laid off into counties, is 463,048, making a total of 905,155 acres. Add to this the 500,000, to which we will be entitled upon our admission into the Union, and which is appropriated by our Constitution to educational purposes, and we have the magnificent aggregate of 1,405,155 acres. As the care of these lands will devolve upon the Legislature, I cannot omit to recommend the passage of such additional laws as may be necessary to the preservation of their value. By the act of Congress of

May 20, 1846, and the act of June 25, 1844, the Secretary of the Treasury of the United States is authorized to cause selections to be made for the townships where the sixteenth section has been, in whole or in part, disposed of; and also for those fractional townships where there is no sixteenth section, or where the sixteenth section is a fractional one, containing a less quantity of land than the township in which it is situated may be entitled to. For some of the townships and fractional townships in Iowa, thus situated, the trustees have recommended selections, and in others the land officers; while in many no selections whatever have been recommended, and consequently no lands are reserved. It is understood that their selections have not yet been confirmed by the General Land Office; and as a number of them were made without a personal inspection of the land, and may prove to be of little value, the State could not but be benefited by authorizing new selections. I would, therefore, recommend that provision be made for effecting this object, as well also as for the immediate location of school lands for those townships where none have been recommended, and where the sixteenth section may have been, in whole or in part, disposed of.

I cannot but regard the sale of the school lands at present, as of questionable policy; but should it be determined to make an early disposition of them, too much care cannot be taken to avoid an insecure investment of the proceeds arising from their sale. The interest annually accruing from such investment should constitute the available school fund, and might be distributed to the several counties in proportion to their population. As the grant is intended

for the whole people, this is perhaps the only way in which justice can be done; for if each township is to receive only the proceeds of its own sixteenth section, some would be almost entirely excluded from all participation in the benefits of the fund, owing to the inferior character of the land assigned it, while others, with perhaps less population, would receive a large and over proportion. If the sale of the lands be not authorized, a law empowering the school directors of the several townships, or some other organized body, to lease or rent the untimbered portions of them, would, it is believed, be attended with beneficial effects.

By an act of Congress, approved July 20, 1840, two townships, or seventy-two sections of land, were set apart to the Territory for the use and support of a University; and under the act of March 3d, 1845, these lands are given to the State, to be applied to the purposes for which they were originally granted. The selections authorized by this act were to be made under the directions of the Secretary of the Treasury, but no appropriation having been made for the pay of an agent, but little has been done towards carrying out the provisions of the law. Although three several persons have been appointed at different periods to make choice of these lands, I know of but two sections which have been regularly selected and returned. These lie in Jefferson county, and are said to be valuable. As it is of manifest importance that further delay in making this grant available should be avoided, I respectfully suggest the passage of an act compensating the present agent, (David Ferguson, Esq., of Van Buren county,) for any services which he may perform. Nothing short of such a step, I am sat-

isfied, will enable the State to locate the remaining seventy sections judiciously, and at an early day. The government surveys are at present being actively prosecuted in Iowa, and the agent should be prepared to make return of his selections the ensuing spring.

Under an act of Congress approved August 8, 1846, one equal moiety of all the unsold and unencumbered public lands, in alternate sections, in a distance of five miles on each side of the Des Moines river, is granted to the Territory of Iowa, to aid in the improvement of the navigation of said river, from its mouth to the Raccoon fork; and the lands thus granted are to become the property of the State, for the purposes stated, as soon as it is admitted into the Union, provided the Legislature will declare its formal acceptance of the grant. The lands donated are not to be conveyed or disposed of except, as the improvements to which they are to be applied progress; and are to be selected by an agent or agents appointed by the Governor of the Territory. In accordance with this provision of the law, and after waiting in vain for instructions from the General Land Office, on the eleventh of the present month I appointed Jesse Williams of Johnson county, Josiah H. Bonney of Van Buren county and Robert Cock, of Wapello county, Commissioners to make the contemplated selections. These appointments were made under the belief that it would be necessary, or at least highly advantageous to the State, to make a personal inspection of the country embraced within the grant; but the agents were informed that it was not expected they should proceed in the discharge of the task assigned them until further advised. I communi-

cate to you a letter from the Commissioner of the General Land Office, received since these appointments were made, accompanied by a diagram of the surveyed portion of this grant, from which it will be seen to be the decision of the Department that the only step necessary to be taken by the Territory or State is to make choice between the odd and even sections. Should it be thought advisable, under this decision, to dispense with all examination of the land, it will be in the power of the Legislature to do so. The list referred to in this letter as showing the areas of all the sections and parts of sections within the grant, was found upon examination, to be entirely incorrect, and has been returned. Beyond the appointment of Commissioners to make the necessary selections, no measures have been adopted towards fulfilling the requirements of the law; and it will remain for the State authorities to take such further action on the subject as may be found necessary to make the donation available.

That the State will accept of this extensive grant and faithfully apply its proceeds, I cannot entertain a doubt. The Des Moines is known to present fewer obstacles to navigation than any other river within our limits, and its improvement has ever been regarded as an object of the first importance. The practicability of so improving it by locks and dams, as to enable reasonably sized steam boats to pass as high up as the Raccoon Fork, a distance of one hundred and fifty miles, has been affirmed by engineers of experience; nor, from the regularity of the river, its high banks, rock bottom, and extremely favorable character generally, is it believed the work would be attended with any very

heavy expenditure of money. It is an improvement in which nearly one-half of the people of Iowa are directly interested, as furnishing them with an easy, safe and cheap mode of transit for their vast and increasing surplus productions, and one which, when completed, will greatly add to the population and wealth of the State. The precise extent of the grant cannot be ascertained at present; but I feel warranted in stating, from information derived from the most reliable sources, that it will cover upwards of three hundred thousand acres of the most fertile and valuable land in Iowa.

In order to make these lands available, and at the same time to avoid injustice to a very large class of citizens, who, acting upon the invitation of the government to settle on the public domain, have made locations which will be embraced within the grant, additional Legislation will be found necessary. It is estimated that at least two-thirds of the entire donation is occupied and claimed by settlers, many of whom, under the expectation of obtaining a title to their lands from the general government at the minimum price, have gone on to make extensive and valuable improvements. A change of proprietorship should not, in my opinion, be permitted to place this large and respectable portion of our fellow-citizens in a worse condition in regard to their lands than they are at present, either by increasing the price or shortening the period allowed for payment. In view of all the circumstances, I am inclined to believe that a special preemption law, which will give to the claimants the privilege of entering their homes at $1.25 per acre, will be found the most judicious course for the State, as it doubtless

will be the most satisfactory to the settlers. The passage of such a law, or of any law looking to the prosecution of the Des Moines river improvement, must necessarily be followed by the establishment of a land office, and the appointment of an agent or agents to dispose of the lands.

The period has arrived when a complete revision of the laws of Iowa is on all hands expected. The want of such a code has been felt and acknowledged for years, but it was deemed inexpedient to commence its compilation until after the organization of a State government. In calling the attention of the Legislature to the subject now, I feel that I need but refer to its importance to ensure immediate and favorable action. The confusion which pervades our statute enactments is as injurious in its tendencies, as, if permitted to continue, it will be disreputable to the character of the State. Nor will it be an easy task to collect, harmonize, and put into proper shape, the incongruous legislation of eight years; but a work of time and labor, which should be committed to none but able hands. I cannot but express the hope that, in authorizing such a revision, the State will avail itself of its best legal talent, whether it be deemed advisable to institute a special commission for the purpose, or, as has been done elsewhere, some gentleman learned in the law be authorized to perform the work, with a guarantee that the State will subscribe and pay a stipulated price for a certain number of copies upon their delivery. In either case, the State should prescribe the arrangement and execution of the work in the fullest manner possible.

I regret to inform you that an effort made by me, during the past summer, to effect such a return of the effective

strength of the militia, as would enable the State to draw its proper quota of arms, proved entirely unsuccessful. A most unaccountable feeling of indifference pervades the community on this subject, which should, if possible, be overcome. We have a militia law on our statute book, and the semblance of a militia organization, without the reality. The law, for all useful purposes, is a dead letter, and should, it is suggested, be made to give way to one more simple in its provisions, and looking only to such an organization as will secure the State its proportionate share in the distribution of arms and accoutrements annually made by the General Government. The most effective measures are called for at the hands of the Legislature to guard future loss to the people in this particular.

Under an act of Congress, passed at the last session, all necessary authority is conferred upon the Supreme Court of the United States, to adjudicate the disputed question of boundary existing between Iowa and Missouri. This law was passed in obedience to a memorial of the Territorial Legislature, and was necessary to a determination of the question while Iowa remained a Territory; but as a State she needs no such law to become a party to any case which may be agreed upon. I adhere to the belief expressed in my annual Communication to the Territorial Legislature a year ago, that true policy requires that this vexatious and long pending question should be submitted to the decision of the Supreme Court, and recommend that all legislative provision necessary to the commencement and termination of such a suit be made.

The reports of the auditor of Public Accounts, and Terri-

torial Treasurer, are herewith communicated. The liabilities of the Territory are stated by the Auditor to be $20,791.25, and the estimated resources $8,167.50, leaving an excess of liabilities, for the payment of which there is no provision, of $12,623.75. The debt due the Miners Bank of Dubuque, amounting, principal and interest, to about $7,000, is understood not to be included in this excess; which added, will show the aggregate of the liabilities of the Territory to be $19,623.75. This debt is due chiefly, if not entirely, to our own citizens, whose interests will demand consideration at your hands.

The law of last session, for leasing the Penitentiary, is defective, in not requiring the lessee to submit an annual report. In the absence of information from the proper source, I am only able to state that during the past year the number of convicts has varied from six to two, the latter being the number at present in confinement. The leasing system, whatever may have been its success elsewhere, in the opinion of those who have had the best opportunities of judging, has proved a failure, and should be abandoned. The State owes it to itself to assume the management of the prison, and to prescribe and enforce a rigid system of prison discipline. At present there is no discipline whatever; the convicts are more frequently employed without than within the walls of the Penitentiary, and can easily make their escape when disposed to do so.

Within the past year treaties have been concluded with the Winnebago and Pottawotamie Indians, by which all the lands owned by these tribes, lying within Iowa, are ceded to the United States. The country acquired from the Win-

nebagoes constitutes what is known as the "Neutral Ground," a strip of land forty miles in width, extending from the Mississippi to the Des Moines, and embraces about four millions of acres of choice and valuable land. The Pottawotamie purchase, greater in extent than the "Neutral Ground," by about a million of acres, lies on the Missouri river, and is also valuable. By these treaties the Government acquires the title to all the Indian lands remaining in the State, and we may expect at an early day to be entirely relieved of our Indian population. The occurrence of this event will be the signal for a rush of immigration to the newly acquired lands, which must materially augment the population and wealth of the State.

The discharge of the Executive duties, under the Constitution, will shortly devolve upon another, recently chosen by the people, of whose disposition to co-operate with the General Assembly in all things calculated to advance the interests of the State I feel fully assured. That your joint labors may be characterized by harmony, and that a wise, pure, and economical administration of the government may be secured to the people, is my most sincere wish.

JAMES CLARKE.

IOWA CITY, DEC. 2, 1846.

VETO MESSAGE

TO THE HOUSE OF REPRESENTATIVES

JANUARY 17, 1846

From the Journal of the House of Representatives, p. 225

EXECUTIVE OFFICE, IOWA CITY,
January 17th, 1846.

The bill entitled, "An act for the relief of Samuel C. Reed," being of such a character as to compel me to withhold my approval, I herewith return the same to the House of Representatives, where it originated, with these my objections.

The claim of Mr. Reed, amounting to one hundred and eighty-three dollars and fifteen cents, is for provisions furnished the militia called into the service by the U. S. Marshal, in the winter of 1839–40, to support the civil authorities of the Territory in maintaining jurisdiction over a certain portion of Van Buren county.

The bill herewith returned, provides for the payment of this claim out of the Territorial Treasury, with six per cent. interest thereon from 13th December, 1839; the whole, when taken together, exceeds the sum of two hundred and fifty dollars.

However just and equitable may be this claim, I should regard its payment out of our local treasury, as a virtual assumption of the whole debt accruing out of our difficulties with Missouri, with a sum of interest exceeding one-third of the original amount added thereto.

The Territory cannot, without justly subjecting itself to the charge of partiality in the distribution of its favors, select out one particular claimant for relief, and reject similar accounts brought forward by others. Those who furnished arms, clothing, and other munitions of war, as well as the militia who turned out on the occasion in question, have equal claims for remuneration with those who furnished provisions, and the obligation rests upon us morally, if not legally, to treat them with equal favor. The recognition of the account of Mr. Reed as legitimately chargeable to the Territory, viewed in this light, assumes an importance that otherwise could not attach to it; for instead of merely authorizing the liquidation of a demand for some two hundred and fifty dollars, as provided for in the bill, its inevitable effect would be to entail upon the Treasury a debt of from twenty to thirty thousand dollars.

Lieut. Ruggles, of the U. S. Army, under instructions from the war Department which prevented him from embracing a large number of well founded claims in his estimate, reported according to my recollection, the amount properly payable out of the National Treasury, in consequence of the boundary dispute, to be something upwards of thirteen thousand dollars; an amount which could scarcely fail to be augmented to twenty thousand, by the admission of the rejected items.

To this heavy sum, carrying out the principles of the bill returned, interest would have to be added at the rate of six per cent. per annum, for six years, amounting to 7,200 dollars, which would swell the public liabilities from this one cause to the alarming aggregate of twenty-seven thousand, two hundred dollars. Sympathizing, as I do, with those

who are sufferers on account of the aid rendered by them in assisting the Governor and Marshal to maintain jurisdiction, I cannot, consistent with my sense of duty, consent to be instrumental in imposing upon the people of Iowa such a momentous load of debt.

Although our repeated applications for compensation from the General Government have thus far been ineffectual, I do not despair of ultimate success before Congress. The fact of a bill authorising payment, having passed the House of Representatives upon one or two occasions, taken in connexion with the course pursued by the war Department in examining into and ascertaining the amount of the claims, affords strong grounds for the belief, that with the increased weight and influence which our admission into the Union as a State, will give us at Washington, some relief measure can be carried through. The payment or assumption of these expenses, or any portion of them, by the Territorial Legislature, it must be apparent, would materially lessen, if indeed, it did not wholly destroy all hope of this kind. Were the claim for which the bill provides payment an isolated one, my desire to co-operate with the Legislative Assembly in all its acts, might have prevented me from interposing any objection to its payment out of the Territorial Treasury, notwithstanding the impropriety and impolicy of allowing interest upon such accounts; but satisfied, as I am, that, should the bill once become a law, it will open the door to numberless other claims of a similar character, and finally lead to the assumption of all the expenses attending the Missouri difficulty, I feel reluctantly constrained to withhold my assent to the bill.

JAMES CLARKE.

SPECIAL MESSAGE

TO THE COUNCIL AND HOUSE OF REPRESENTATIVES

JANUARY 9, 1846

From the Journal of the House of Representatives, p. 274

Gentlemen of the Council and of the House of Representatives:

From information received from a reliable, though unofficial source, I learn that the Sheriff of Davis County, in the execution of a writ of attachment sued out of the office of the Clerk of said county, against the property of an individual residing on the tract of land in dispute between the State of Missouri and this Territory, was arrested some ten days or two weeks since by the authorities of Schuyler county, Missouri, on a charge of attempting to exercise the functions of his office within the organized limits of said State, and was only released upon executing security for his appearance at the next term of the court of the said county of Schuyler; I further learn also, that a few days subsequent to the occurrence just related, another attempt was made by a considerable body of men claiming to be citizens of Missouri to resist the execution of process by the sheriff of Davis county, but without success: the sheriff and his posse, in defiance of all threats and attempts at intimidation, and in the face of a superior force, having duly executed the writ, and secured the property attached.

I deeply regret that it becomes my duty to communicate to the Legislative Assembly this unpleasant intelligence. The fact that the Legislature of Missouri, in March last, enacted a law having for its alleged object the amicable settlement of the boundary difficulty in the Supreme court of the United States, authorized the belief that no attempt would be made on the part of the authorities of that State to enforce jurisdiction beyond her heretofore recognized boundary line, until advised of the rejection of the proposed mode of adjustment by this Territory; and if not rejected, but assented to, to the extent of our control over the matter, (as I entertain no doubt it will be before the adjournment of the present Legislature) until such time as a decision can be obtained in the manner and form suggested. It appears, however, that this expectation is not to be realized. Iowa having exercised undivided jurisdiction over the country in dispute, so far as the same has been embraced within the limits of her organized counties, ever since her organization as a Territory, now nearly eight years, cannot be expected to relinquish her claim at the present moment, with the prospect of a speedy and final adjustment of the difficulty full in view. With us, it should be constantly borne in mind, the question is one of maintenance of boundary and jurisdiction, while with Missouri it is one of encroachment and extension. This distinction I conceive to be necessary to the correct appreciation of the true merits of the controversy, and important as security to exonerate Iowa from responsibility for any unhappy consequences which may ensue. A strong and energetic appeal to Congress for the speedy enactment of such a law as will authorize the litigation

of the question in the Federal court at Washington, will demonstrate the willingness of this Territory to settle the difficulty in an amicable spirit, and at the same time, it is hoped, will call forth action of the character prayed for, by which future collision may be avoided. This step once taken, our control over the matter ends.

There is great reason to apprehend that the state of things which has existed on the theatre of dispute for the last year and upwards, cannot long continue without producing results of a more serious character than any that have yet taken place. With the lapse of time the causes of difficulty and collision may be expected to multiply until a spirit of hostility, is engendered between the parties which can scarcely fail to end in open conflict. The opposition of force to force, in the due execution of the laws, is an alternative which can only be justified after all pacificatory measures have been exhausted; and so far as the authorities of this Territory are concerned, I trust and believe no efforts consistent with a just sense of our rights, will be spared to avoid the necessity of resorting to such alternative. Still it is respectfully submitted to the wisdom of the Legislature whether some precautionary measures should not be adopted to sustain the officers of the law in the discharge of their duty under all exigencies.

The sheriff of Davis county having executed security for his appearance at the next term of the Schuyler county court, which commences its session in April, it is but just and proper that counsel should be assigned him by the Territory. In the absence of any authority for the employment of such counsel, I respectfully recommend to the Legislative Assem-

bly the passage of a law empowering the Executive to employ counsel in this and other similar cases which may hereafter arise, and that the expenses of such legal services be made payable out of the Territorial Treasury.

JAMES CLARKE

EXECUTIVE OFFICE, JAN. 9, 1846.

PROCLAMATIONS

CALLING FOR VOLUNTEERS FOR MEXICAN WAR

JUNE 1, 1846

From the Bloomington Herald, N. S., Vol. I, No. 8, June 5, 1846

The President of the U. States under a law enacted at the present session of Congress, authorizing him to accept the services of fifty thousand Volunteers, to serve in the war now existing between Mexico and the United States, having made a requisition upon me, as Executive of the Territory, for the enrolment of *one Regiment of Infantry*, to be mustered into the service at such time as may be required, I hereby proclaim the fact to the citizen soldiery of Iowa, not doubting but that they will respond to the call with the utmost alacrity and promptness. It is due to the character of our Territory and its inhabitants that the requisition be at once met by voluntary enlistment; and that it will be so met I have entire confidence. To ensure this result, I recommend that active, efficient, and *immediate* steps be taken in the several counties of the Territory, to procure the enrolment, in good faith, of all who may be disposed to tender their services to their country, a report of the result to be transmitted to me at the earliest possible day. The aid of all good citizens—all lovers of their country—is invoked and calculated on; and it is especially enjoined on all officers holding military commissions that

they be active and vigilant in their efforts to assist in raising the force called for by the President.

The regiment to be organized is to consist of ten companies, each company to have one Captain, one 1st and one 2d Lieutenant, four Sergeants, four Corporals, two Musicians, and sixty-four privates. The officers, under the act of Congress of the 13th May last, are to be appointed and commissioned in accordance with the laws of this Territory. The enlistment is to be for "twelve months after they shall have arrived at the place of rendezvous, or to the end of the war, unless sooner discharged, according to the time for which they shall have been mustered into service;" and no man under the rank of commissioned officer, who is in years apparently over forty-five, or under eighteen, or who is not in physical strength or vigor, will be received. As soon as the War Department is apprised that the enrolment is full, an officer of the army will be detailed to muster the volunteers into the service of the United States, after which, in all things but clothing and pay, they will take the organization of the regular army. "In lieu of clothing, every non-commissioned officer and private in any company who may thus offer himself shall be entitled, when called into actual service, to receive, in money a sum equal to the cost of clothing of a non-commissioned officer or private (as the case may be) in the regular troops of the United States."

The President, in thus offering us an opportunity of participating in the danger and glory of inflicting merited chastisement upon the invaders of our soil, has, I am confident, but anticipated the wishes of the great body of our people. It remains for us to prove by our acts, that he has not

formed too high an estimate of our devotion to country, and that the flame of patriotism burns not less brightly in Iowa than elsewhere.

JAMES CLARKE.

By the Governor:

JESSE WILLIAMS, *Secretary of the Territory.*

EXECUTIVE OFFICE, BURLINGTON, JUNE 1, 1846.

ON THE VOTE RATIFYING THE CONSTITUTION AND FIXING DATE FOR ELECTION OF STATE OFFICERS

SEPTEMBER 9, 1846

From the Bloomington Herald, N. S., Vol. I, No. 22, Sept. 11, 1846

Returns having been received at the office of the Secretary of the Territory of the votes taken for and against the Constitution, at the general election held on the third day of August last, in all the origanized [organized] counties thereof except Delaware and Buchanan, in conformity to the provisions of "An act to provide for the election of Delegates to a Convention to form a Constitution and State Government," approved January 17, 1846; and the said votes so returned having been counted in the presence of the undersigned, Governor of the said Territory, and examined and compared as contemplated by law; it is hereby declared and made known, (in compliance with the spirit and intention of the provisions of said act,) that there were given, in the counties from which returns have been received, nine thousand four hundred and ninety-two votes for the Constitu-

tion, and nine thousand and thirty-six votes against it, making a majority of *four hundred and fifty-six* votes in favor of the Constitution:

And Whereas, said majority exceeds by three hundred and seventy-nine votes the aggregate vote cast at the election held in August 1845 for Delegate to Congress in the counties not returned, thus making it manifest, in the absence of complete returns, that a majority of the votes have been cast in favor of the adoption of the Constitution. It is therefore, conformably to the provisions of the statute, hereby proclaimed, that the Constitution on the eighteenth day of May, 1846, has been formally ratified and adopted by the people.

And Whereas, under the Constitution thus adopted, it is made the duty of the Governor of the Territory to designate, by proclamation, a day for the holding of the first general election for the selection of State officers, and members of the first State Legislature. Be it therefore known, that MONDAY, THE 26TH DAY OF OCTOBER NEXT, is the day fixed upon for the holding of said State election, at which time the qualified electors of Iowa will elect one Governor, two Representatives in Congress of the United States, one Secretary of State, one State Auditor, one State Treasurer, and such number of members of the Senate and House of Representatives of the State as are designated and provided for in article thirteen of said Constitution. Said elections, under said Constitution, are to be conducted in all respects according to the existing laws of the Territory, except only in such cases as the same may be found to conflict with the Constitution under which the election will be held.

In Testimony whereof, I have hereunto subscribed
L. S. my name, and caused the Seal of the Territory to be affixed.

Done at Burlington, this ninth day of September, in the year of our Lord one thousand eight hundred and forty-six, and of the Independence of the United States the seventy-first. JAMES CLARKE.

By the Governor,

JESSE WILLIAMS, Secretary of the Territory.

FIXING DATE FOR THE FIRST MEETING OF THE GENERAL ASSEMBLY OF THE STATE

NOVEMBER 5, 1846

From the Iowa Standard, N. S., Vol. I, No. 22, Nov. 11, 1846

WHEREAS, under the constitution adopted by the people of Iowa at the last August election, it is made the duty of the Executive of the Territory to prescribe a time for the meeting of the State Legislature elected on the 26th of October last—I, James Clarke, Governor of said Territory of Iowa do hereby issue this, my proclamation, directed to the several members chosen as aforesaid, designating Monday, the 30th of November, inst., as the day for the meeting of said State Legislature:

In testimony whereof, I have subscribed my name, and caused the Great Seal of the Territory to be
(SEAL) affixed, at Burlington, this fifth day of November, A. D. 1846. JAMES CLARKE.

By the Governor,

JESSE WILLIAMS, Secretary of State.

ON THANKSGIVING

NOVEMBER 6, 1846

From the Iowa Standard, N. S., Vol. I, No. 22, Nov. 11, 1846

CONFORMABLY to the request of many highly respectable persons belonging to the several religious denominations of the Territory, and in obedience to a venerable and generally approved usage, I hereby name Thursday, the 26th day of November, inst., as a day of general Thanksgiving throughout Iowa, and recommend that it be celebrated by prayer, humiliation, and abstinence from secular employment.

It is meet on an occasion like the present, when, as a people, we are about assuming new and important responsibilities, that light and wisdom should be invoked from above. Moreover, the past year has been fruitful of blessings to our favored Territory, for which we have abundant causes to be grateful. Thanks for our continued existence and prosperity as a community; for augmented human comforts; for health and a bountiful yield of the necessaries of life; for the advance of learning, science, and education; for the onward march of the doctrines of christianity; for the triumph of our country's arms on the ensanguined field;—all these, and more, we are called upon to render. The spectacle of a whole people voluntarily uniting on a particular day in a tribute of praise for the blessings they enjoy is one of the most impressive character, containing the best assurances of the durability and permanency of the liberal institutions under which we live.

In testimony whereof, I have hereunto subscribed

my name, and caused the Great Seal of the Territory to be affixed, at Burlington, this sixth day of November, 1846.

(SEAL)

JAMES CLARKE.

By the Governor:

JESSE WILLIAMS,

Secretary of the Territory.

GOVERNOR ANSEL BRIGGS

BIOGRAPHICAL SKETCH

Ansel Briggs, the first Governor of the State of Iowa, was born in Vermont on February 3, 1806. About 1830 he removed with his parents to Cambridge, Ohio. Here he became interested in establishing and operating stage lines. In 1836 he removed from Ohio to Andrew, Jackson County, Iowa, where he continued to interest himself in stage lines. During the Territorial period he held a number of contracts for the carrying of United States mail in Iowa.

He was educated in his native State, where he attended the common schools and spent one term at the Academy of Norwich.

In 1842 he was elected to the House of Representatives of the Territory of Iowa. In September, 1846, he was nominated by the Democrats for the office of Governor of Iowa. His election took place in October of the same year. On December 3, 1846, he was inaugurated as the first Governor of the State of Iowa. He served for the full term of four years.

For some time after his term of office as Governor, Ansel Briggs continued to reside at Andrew, Jackson County. But in 1870 he removed to Council Bluffs. He died at the home of his son in Omaha, Nebraska, on May 5, 1881. He was buried at Omaha.

BIBLIOGRAPHICAL NOTE.—*Iowa Historical Record*, Vol. I, p. 145. *Annals of Iowa*, 3d, Series, Vol. II, p. 219.

INAUGURAL ADDRESS

DECEMBER 3, 1846

From the Journal of the House of Representatives, p. 34

Gentlemen of the Senate, and House of Representatives:

Having been called by the suffrages of my fellow-citizens, to the Executive office of the State of Iowa, I enter upon the discharge of its duties with a profound sense of gratitude for this manifestation of public confidence. From my want of experience in the affairs of civil administration, I must naturally feel a great degree of embarrassment in my present position; but that feeling will be greatly lessened from the hope and belief which I entertain, that in your character of representatives of an enlightened constituency, you will kindly extend to me your aid and indulgence.

The circumstances under which you assemble are to us of a novel, interesting and important character. We have passed from a dependent Territory to an independent and sovereign State, and it is a subject of congratulation that we shall no longer be denied the blessings and privileges consequent upon this great change.

Our Constitution is one which does honor to the character and intelligence of our infant State; and we need apprehend no difficulty in the way of our full admission into the Federal Union, so soon as the simple form of its presentation in the Congress of the United States is complied with.

Having a country unsurpassed in beauty and fertility, and which is rapidly filling up with an intelligent and enterprising people, we bid fair in a very short time to take a most enviable position among our sister States. But, gentlemen, it much depends upon your action at this first session of our Legislature, whether we shall advance to that position by rapid strides, or for years be left to "draw our slow length along." If you proceed with that calmness and caution, that fervent desire for the happiness and welfare of our country, which should, and doubtless will characterize your deliberations, all will be well; but if, unhappily, from any cause, the utmost care is not taken to guard against hasty and unnecessary legislation, lasting evils may be entailed upon our institutions.

Having only within the last four days had notice of my election, and not being in possession, and having no opportunity of access to any data by which to be guided, it cannot be expected that I will, at this time, attempt to call your attention to any specific subjects of legislation. Indeed, it is now rendered altogether unnecessary, as His Excellency, the Governor of the Territory, has done this in his able communication of yesterday, to the two Houses of the General Assembly.

You will have the Constitution before you, gentlemen, which points out all subjects of immediate legislation that will be necessary to set the State Government in motion; and I shall, as it may become necessary in the progress of your labors, make you further communications.

In conclusion, gentlemen, permit me to assure you, that in all your efforts which are directed to the advancement

and prosperity of our State, you shall have my hearty co-operation, trusting that if we place a proper reliance on that Supreme Being who rules and governs all nations, our labors at this first and most important session of the Legislature, will redound to the honor and happiness of our fellow-citizens.

ANSEL BRIGGS.

IOWA CITY, DECEMBER 3, 1846.

SPECIAL SESSION MESSAGE

JANUARY 3, 1848

From the Journal of the House of Representatives, p. 14

Gentlemen of the Senate, and House of Representatives:

The ninth section of the fifth article of the Constitution of this State, provides that the Executive "may on extraordinary occasions, convene the General Assembly by Proclamation, and shall state to both Houses, when assembled, the purpose for which they shall have been convened." Believing that the interests and welfare of the State called for the exercise of the power thus conferred upon the Executive, I issued my Proclamation convening the General Assembly, at Iowa City, on the first Monday in January, 1848. You have assembled in obedience to that proclamation, and I now proceed to state, as concisely as possible, the "purpose" for which you have been convened.

Our Laws relative to Common Schools, in my judgment, call for your immediate and careful attention. The people of Iowa have ever manifested an earnest and commendable zeal in the spread of education, and, especially, in the establishment of an efficient and permanent system of Common Schools. Of such prominent importance is this subject in their estimation, that they have made the most ample provisions in the Constitution for the spread of education and the support of common schools; and, also, enjoined upon

the General Assembly, in an imperative manner, the duty of carrying out those provisions.

The act of the General Assembly, approved February 24th 1847, entitled "an act supplemental and amendatory to an act to establish Common Schools," approved January 16, 1840, provides, "That there shall be annually an election on the first Tuesday of April, in each School District, for the purpose of choosing three Directors, who shall hold their office until their successors are elected;" that "at each annual township election, there shall be a School Inspector elected, who shall hold his office for one year, and until his successor shall be elected;" that "at the next annual township election and tri-annually thereafter, there shall be a Superintendent of Public Instruction elected, who shall hold his office for three years, and until his successor shall be duly elected and qualified;" and that "at the next annual township election, in every organized county in this State, there shall be selected a school fund commissioner for the county, who shall hold his office two years, and until his successor is elected and qualified."

Soon after its approval, and previous to the last township elections, the law was published in several of the newspapers of the State. Supposing the law to have taken effect, and to be in force, the people, on the first Tuesday of April last past, and at the last township elections, elected the officers above enumerated. The highest judicial tribunal of the State has since decided, that at the time those elections were held, the School of Law of 1847 was not in force, and that the elections, so far as those officers were concerned, were void and of no effect.

As it is understood the law is now in force, and as it expressly repeals all School laws heretofore in force, it seems the people, at the present time, have a school law, but no officers to carry out the provisions of that law.

Some of the school officers thus elected, have entered into bonds, and have endeavored to discharge their duties under the law; and among others, the Superintendent of Public Instruction. Some of them, however, remain inactive and uncertain as to the line of conduct they ought to pursue. To be thus situated, is extremely embarrassing and detrimental to the cause of education.

The School Law of 1847, would probably be so constructed [construed] as to authorise the election of school officers at the coming township elections; but as much confusion undoubtedly prevails in the minds of the people touching their duty under the law, I respectfully recommend that this subject receive your earliest and most earnest attention, and that such measures be taken as will secure to the people as speedily as possible, the benefit of the liberal provision made in the constitution for the spread of education and the support of common schools.

In connection with the foregoing, I would respectfully invite your attention to an act of the General Assembly, approved February 25th, 1847, entitled "an act to provide for the management and disposition of the School Fund." The eighth section of this act provided "that the manner of selecting the Five [hundred] thousand acres of land mentioned in the second section of the tenth article of the Constitution, and the disposition thereof, for the support of schools, shall be as follows, to wit: Any person capable of

contracting, having settled upon public lands, the quality whereof and the improvements thereon will, in the opinion of the Fund Commissioner of the county, render the selection a safe and profitable one, may in writing signify to said Fund Commissioner his or her desire to have the same recognized as School land, and thereupon the same, not exceeding three hundred and twenty acres, shall be returned by said Fund Commissioner, with the date of their selection, to the Superintendent of Public Instruction, to be by him registered as lands selected by the State under the grant from Congress referred to. After which the said Fund Commissioner shall proceed to contract with such settler for a sale thereof.

The seventeenth section of the act provides that "the Superintendent of Public Instruction shall report, from time to time, all selections made under the eighth section of this act, to the Secretary of the Treasury of the United States, and to the proper Land Office."

Selections made according to the provisions of the eighth section of this act, have been reported to the General Land office by the gentleman elected as Superintendent of Public Instruction. The report has been returned, as incorrect and invalid, on the ground that the selections thus made, conflict with the General Land Office instructions of August 6th, 1847, in reference to State selections under the act of Congress of 4th September 1841, entitled, "an act to appropriate the proceeds of the sales of the public lands and to grant pre-emption rights." The 5th section of those instructions makes it important and necessary that the selecting agent of the State "should make such careful and

thorough preliminary examinations as will enable him to select lands to which may exist no valid claim by pre-emption or otherwise;" and the sixth section provides that "if, notwithstanding such precaution, the State shall hereafter select lands which shall be found to be interfered with by any prior or better claim or claims, the selections, to the whole extent of such claim or claims, will of course be null and void." It will readily be perceived from the foregoing instructions, that it is not contemplated by the act of Congress, above referred to, to surrender to the States any land covered by any valid claim "by pre-emption or otherwise." Consequently, the law of this State,—allowing persons having claims upon the public lands by virtue of improvements thereon; to register them as lands selected by the State, and then to purchase them from our own State officers, conflicts, in a very material point, with the instructions from the General Land Office. It is of the utmost importance to the cause of education in this State that these selections should be made as soon as practicable. In order to accomplish this object, our laws relative to the making of those selections must harmonize with the requirements of the General Government. I trust that this subject, also, will receive your early attention. The circular of Instructions from the General Land Office of August 6th, 1847, the selections reported by the Superintendent of Public Instruction, together with a letter from the General Land Office of November 3d, 1847, relative to those selections, will hereafter be presented to you. It is a source of regret that so much confusion prevails in our Statute Laws. The interests of the state, in my opinion, call for a revision of those laws

as soon as practicable. Should you coincide with the executive in this opinion, I would respectfully recommend that a commissioner or commissioners be appointed to revise the code; and that they be instructed or required to report their proceedings at the next regular session of the General Assembly.

The Penitentiary of this State is in an unfinished and inefficient condition. It is important that the provisions of the act of the General Assembly, approved February 25th, 1847, relative to the appointment of an agent, by joint resolution of the General Assembly, to make the necessary contracts for completing the building, should be carried into effect; and I would therefore suggest that this subject receive your prompt attention.

Since the close of the last session of the General Assembly, all of the Judges of the Supreme Court of this State, who held their offices by virtue of appointments under the General Government, have resigned. The eighth section of the fifth article of the Constitution, provides that "when any office shall, from any cause, become vacant, and no mode is provided by the Constitution and laws, for filling such vacancy, the Governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the General Assembly or at the next election by the people," as, in my opinion, the contingencies contemplated by the Constitution, had arisen, I filled the vacancies thus occasioned, by granting commissions, which will "expire at the end of the next session of the General Assembly."

The question may possibly be started, whether the Con-

stitution intends that these commissions shall expire at the end of a regular session of the General Assembly, or whether it will be so constructed [construed] as to render the provision above mentioned, applicable, also to a special session? It can be gathered from the Constitution, that the people of this State are determined to retain as much power in their own hands, as they can consistently with a proper and judicious Administration of the affairs of the Government, as all history and experience teach, that where power is vested in any one man, it is liable to be perverted and abused, they have thought proper, in order to prevent any temptations to such abuse, to withhold, as a general rule, all power from their State officers except such as is absolutely necessary for the performance of their official duties. Consequently, so far as the power of appointment is concerned, the Executive of this State is clothed with that power only when a vacancy in office occurs, for which no provision is made in the Constitution, and laws; and it is further provided that even those appointments shall exist no longer than until the people can fill such vacancies, either by their own immediate action, or in the manner provided by them. As the Executive is thus restricted—as the power would probably not have been granted could it properly have been withheld,—and as it appears clear that it is the intention of the Constitution that the people shall exercise this power as soon as they have an opportunity so to do, I am strongly inclined to the belief that these commissions expire at the end of the present session of the General Assembly; and that, if it was the intention of the powers of the Constitution that they should expire at the end of the

next regular session, they would have so couched the provision in question, instead of using the language in which it stands clothed.

Should you concur in the opinion of the Executive, it will be your duty to elect a Chief Justice and two Associate Justices, in accordance with the third section of the sixth article of the Constitution.

We have emerged from a Territorial into a State Government—have taken our stand among our sister States, and are therefore entitled to be represented by two Senators in the Senate of the United States. Many questions of vital importance will come before that body for its consideration during the present session of Congress.—War exists between this country and Mexico. Congress has declared, by an almost unanimous vote, that this war was commenced "by the act of Mexico." The Administration is advancing the national honor and character, by conducting this war in a thorough and energetic manner, while at every step the olive branch of peace is extended to the enemy. They have rejected all terms of peace heretofore offered. The vigorous prosecution of the war on the part of our Government, is more or less opposed by a very respectable portion of our fellow-citizens; and the enemy will, undoubtedly, continue to reject our proffered terms of peace, until it is ascertained whether that opposition will gain the ascendency in the republic.—The voice of Iowa, therefore, should be heard, and her true sentiments felt, in the Senate of the United States. Under such circumstances, it is believed by the Executive, that the duty of electing United States Senators, according to the provision of the Constitution, will be by you, speedily and harmoniously performed.

As it is, unquestionably, the desire of the people, that the affairs of State should be conducted as economically as possible, consistently with their interests, I have recommended and briefly communicate upon those subjects only, which, in my judgment, immediately affect those interests; and I would respectfully suggest that your attention should, at the present session, be confined to those matters in which they are thus concerned, and that, as a general rule, all local legislation be deferred until the regular session of the General Assembly.

ANSEL BRIGGS.

IOWA CITY, JANUARY 3d, 1848.

FIRST BIENNIAL MESSAGE

DEC. 5, 1848

From the Journal of the House of Representatives, p. 13

Gentlemen of the Senate, and House of Representatives:

You have assembled as a co-ordinate branch of the Government, for the purpose of performing the duties imposed upon you by the Constitution of the State. It is a source of gratification and pride that we compose one of the States of this great confederacy, and that we live in a country, the Government of which, is superior to any that has ever been formed by the wit of man. Republics possessing some of the features of our own, have arisen and passed away. For nearly three-quarters of a century, our country has prospered in an unprecedented manner; she has stood unshaken amidst internal commotions, wars of invasion, and a foreign war; and our citizens are, at the present time, equal if not superior to any upon the face of the earth, in all that can ennoble and dignify mankind. But our own sagacity has not produced these great and happy results. The eye of Almighty God has watched over us; His arm has been stretched out to protect and assist us; and our deepest gratitude at all times is a poor, but it may possibly be an acceptable, offering to Him for the many and great favors which He has bestowed upon us. Being thus favored of Heaven, every citizen is under the most solemn obligations to pre-

serve unimpaired our Union and our institutions. Every State exerts an influence. We have lately entered the confederacy, and it should be our great desire to labor earnestly and faithfully to promote the happiness of the people of our own State, while at the same time we should be equally solicitous touching the prosperity and honor of our common country.

You, fellow citizens, are the representatives of the people of this State. You are fresh from their midst, and understand their wishes and interests. It will undoubtedly be a prominent consideration that we are their servants; that they expect us to perform our duties with dignity and energy; and especially may they reasonably expect that all legislative business will be despatched as speedily as possible, consistent with accuracy and propriety, in order that they may not be harassed with unnecessary burdens.

If the matters which I shall feebly and imperfectly present for your consideration, fall short of what the people expect at your hands, or if they in any way conflict with their best interests, it is the earnest hope of the executive that you will, by your superior wisdom and acquaintance with their wants, supply the proper remedy.

The following statement exhibits the amount of the receipts and disbursements of the treasury, since the annual report of the territorial treasurer, dated Nov. 16th, 1846:

	RECEIPTS.	PAYMENTS.
Receipts from 16th Nov. 1846, to 1st March, 1847.....	$ 1,379.97	
Payments from 16th Nov. 1846, to 1st March, 1847.....		$ 1,377.35

	RECEIPTS.	PAYMENTS.
[Amount brought forward...	$1,379.97	$1,377.35]
Receipts from 1st March 1847, to 11th June 1847.....	3,316.28	
Payments from 1st March 1847, to 11th June 1847.....		3,309.76
Receipts from 11th June 1847, to 6th Sept. 1847.....	54,679.99	
Payments from 11th June 1847, to 6th Sept. 1847.....		49,097.88
Receipts from 6th Sept. 1847, to 30th Nov. 1847.....	1,210.29	
Payments from 6th Sept. 1847, to 30th Nov. 1847.....		6,812.54
Receipts from 30th Nov. 1847, to 6th March, 1848.....	13,278.95	
Payments from 30th Nov. 1847, to 6th March 1848.....		8,028.58
Receipts from 6th March 1848, to 6th June, 1848.....	2,580.56	
Payments from 6th March 1848, to 6th June, 1848.....		2,960.96
Receipts from 6th June, 1848, to 31st October, 1848.....	180.63	
Payments from 6th June, 1848, to 31st October, 1848.....		3,663.20
	$76,644.67	$75,250.27
	75,250.27	
Balance on 31st October, 1848.	$1,394.40	

It will be perceived by the foregoing statement that on the 31st of October, 1848, there was a balance in the treasury of one thousand three hundred and ninety-four dollars and forty cents.

There is no object for the promotion of which an enlightened legislator will more readily apply his best energies, than that of education. It is generally conceded that our present school law is, in many respects, exceedingly defective. One of the prominent purposes for which the General Assembly was convened in extra session in January last, was the amendment of this law, or the substitution of a different one. Numerous petitions were presented to the Legislature, in which the solicitude of the people in reference to this subject, could not have been mistaken. The law, however, was not amended, and neither was a new one enacted. It is to be regretted that the earnest wishes of the people in this particular, should have been thus frustrated.

In inviting your attention to this subject, I would respectfully suggest that there are one or two points, connected with it, upon which your immediate action would be of essential service to the cause of education throughout the State.

The second section of the tenth article of the constitution makes appropriations for a perpetual State school fund, the *interest* of which alone shall be applied to the support of common schools. By the school law of 1847, all the moneys constituting this perpetual fund flow into the hands of the School Fund Commissioners. The fourth section of the foregoing article of the constitution, provides that "The money

which shall be paid by persons as an equivalent for exemption from military duty, and the clear proceeds of all fines collected in the several counties for any breach of the penal laws, shall be exclusively applied, in the several counties in which such money is paid or fine collected, among the several school districts of said counties, in the proportion to the number of inhabitants in such districts, to the support of common schools, or the establishment of libraries, as the General Assembly shall from time to time provide by law." It would seem clear that it is not the intention of the constitution that the *interest* of the funds accruing under this section, should be applied to the support of common schools in the several counties, but that the *principal* itself should be thus applied; and it would also seem clear that these funds should be kept separate and apart from the permanent school fund. By the twenty-third section of the school law of 1847, it is made the duty of the county Treasurer to pay over to the School Fund Commissioner of the proper county, on the fifteenth day of February, annually, for the use of common schools within the county, all the moneys specified in the fourth section of the foregoing article of the constitution, together with "All funds in the treasury arising from the sale of water crafts, lost goods and estrays." And the nineteenth section of the law provides for levying a tax by the county commissioners of the several counties throughout the State, for the support of common schools in their respective counties. These taxes when collected, are also paid into the hands of the School Fund Commissioners, on the fifteenth day of February, annually. These funds were likewise unquestionably intended to be kept separate from

the permanent school fund, and to be wholly distributed in the several counties where the tax is levied and collected. There are no provisions in the law, however, for keeping these funds, and those arising from the sources heretofore specified, separate and apart from the permanent fund, nor for their separate distribution. On the fifteenth day of February, annually, they are paid over to the School Fund Commissioners, where they must either lie idle, or be loaned out in accordance with the thirty-seventh section of the school law; which section was evidently intended to apply exclusively to the management of the permanent fund. I would, therefore, recommend that some measure be speedily adopted by which the Fund Commissioners will be enabled, when these funds come into their hands in February next, to manage and distribute them according to the intention of the constitution and the laws; and I would further recommend that all other defects in our common school system, receive your earliest and most earnest attention.

In my message delivered at the special session in January last, I called the attention of the General Assembly, to "An Act of the General Assembly, approved February 25th, 1847, entitled 'An Act to provide for the management and distribution of the school fund.'" The eighth section of this act provides "That the manner of selecting the five [hundred] thousand acres of land mentioned in the second section of the tenth article of the constitution, and the disposition thereof, for the support of schools, shall be as follows, to wit: any person capable of contracting, having settled upon the public lands, the quality whereof, and the improvements thereon, within the opinion of the Fund

Commissioner of the county, render the selection a safe and profitable one, may in writing signify to said Commissioner his or her desire to have the same recognized as school lands, and thereupon the same, not exceeding three hundred and twenty acres, shall be returned by said Fund Commissioner, with the date of their selection, to the Superintendent of Public Instruction, to be by him registered as lands selected by the State under the grant from Congress referred to; after which the said Fund Commissioner shall proceed to contract with such settler for the sale thereof.

The seventeenth section of the act provides that "The Superintendent of Public Instruction shall report from time to time, all selections made under the eighth section of this act to the Secretary of the Treasury of the United States, and to the proper land office."

Selections made according to the provisions of the eighth section of this act, have been reported to the General Land Office, by the gentleman elected as Superintendent of Public Instruction. The report has been returned as incorrect and invalid, on the ground that the selections thus made, conflict with the General Land Office instructions of August 6th, 1847, with reference to State selections under the act of Congress of the 4th September, 1841, entitled "An Act to appropriate the proceeds of the sales of the public lands and to grant pre-emption rights." The fifth section of those instructions makes it important and necessary that the selecting agent of the State "should make such careful and thorough preliminary examinations as will enable him to select lands to which there may exist no valid claim by pre-emption or otherwise;" and the sixth section provides that

"if, notwithstanding such precaution, the State shall hereafter select lands which shall be found to be interfered with by any prior or better claim or claims, the selections to the whole extent of such claim or claims, will, of course, be null and void." It will readily be perceived from the foregoing instructions, that it is not contemplated by the act of Congress above referred to, to surrender to the State any land covered by any valid claim "by pre-emption or otherwise;" consequently, the law of this State, allowing persons having claims upon the public lands by virtue of improvements thereon, to register them as lands selected by the State, and then to purchase them from our own State officers, conflicts in a very material point, with the instructions from the General Land Office. It is of the utmost importance to the cause of education in this State, that these selections should be made as soon as practicable. In order to accomplish this object, our laws relative to the making of these selections, must harmonize with the requirements of the General Government.

The General Assembly addressed a memorial to Congress protesting against the instructions of the General Land Office, and praying that those instructions might be so modified as to give our State the benefit of the act of Congress of the 4th of September, 1841. Of the fate of that memorial the executive, up to the present time, has received no intelligence. Whether it will be more advantageous to the cause of education and the interests of the State, to await the result of that memorial, than immediately to cause our laws relative to these selections, to harmonize with the instructions of the General Land Office, I leave for

you to determine, as the selections are at present suspended, and as they will so continue, until either Congress or the General Assembly shall act upon the matter. I trust the subject will receive that attention at your hands which its high importance demands.

Below is presented the number of all able-bodied white male citizens, between the ages of eighteen and forty-five years, subject to military duty in each of the counties which have been reported to me, in accordance with an act entitled "An Act requiring the assessors to take lists of persons subject to military duty," approved January 25, 1848.

COUNTIES.	NUMBER.
Lee,	2688
Johnson,	666
Poweshiek,	61
Linn,	704
Cedar,	539
Iowa,	81
Clinton,	383
Jackson,	1025
Jasper,	108
Keokuk,	485
Louisa,	668
Washington,	566
Davis,	721
Dallas,	59
Polk,	678
Clayton,	419
Henry,	950
Jefferson,	1100

COUNTIES.	NUMBER.
Muscatine,	697
Van Buren,	1640
Buchanan,	71
Whole number reported,	14310

Several of the counties have failed to forward an abstract in obedience to the act above mentioned. However irksome the performance of this species of military duty may to some appear, it cannot be denied that a well organized militia is, in every point of view, essentially necessary in this State; and without further comment, I would suggest that at least such an organization be effected as will entitle us to receive our quota of arms from the General Government.

At the special session in January last, the General Assembly forwarded a memorial to Congress, praying for an appropriation of land for the construction of a railroad from Dubuque to Keokuk, through the interior of the State. It was there referred to a committee, the chairman of which, it is understood, reported adversely to the prayer of the memorial, on the ground that the route had not been surveyed, nor its practicability and distance reported. A railroad through the center of our State would most eminently contribute to the development of our agricultural, mineral and other resources. The efforts of the Legislature to obtain from Congress a donation of land for that purpose, must be a source of extreme gratification to the people of the State; and notwithstanding the failure of those efforts, for causes above stated, there are powerful reasons for a

repetition of the attempt to obtain the desired donation. Before another memorial is presented, however, it seems it will be necessary to make a survey of the contemplated route, and to lay before Congress all the information relative thereto, that can be conveniently obtained. Whether you will deem it expedient to leave this preliminary labor to private enterprise and energy, or adopt such measures as will secure its performance on the part of the State, will be a question properly belonging to you to decide. Should you deem it your duty to renew the application on the part of the State, there would seem no impropriety in furnishing Congress, at the expense of the State, all necessary information connected with such application.

It may not be improper to state here, that I have received copies of resolutions adopted by the Legislatures of several of the States, approving of Mr. Asa Whitney's plan of a railroad to connect the Atlantic and Pacific oceans; and which resolutions contain instructions to the representatives in Congress from those States, requesting them to give the project their support. It is believed that this subject will be vigorously pressed upon the attention of Congress at its coming session. Should this project, or a similar one, be favorably viewed by Congress, it may not be unworthy of consideration whether a subsequent application by you to that body for a donation of land for a railroad through the centre of this State, might not be partly based upon the fact that such road could be made to form one of the links in the great chain of railroads connecting the Atlantic and Pacific. A road connecting with the Chicago and Galena road, and then running through the centre of this State to

Council Bluffs, would, it is believed, effect that object, and at the same time be of great advantage to our citizens. But whatever may be thought of this suggestion, should you deem it your duty to present another memorial to Congress for a donation of land for a railroad through the State, I trust at least that such a route will be selected as will advance the best interests of the people.

The Board of Public Works have received thirty thousand dollars from the sale of the lands granted by Congress to aid in the improvement of the navigation of the Des Moines river, and one-half of that sum has been expended on the improvement. I have certified these facts to the President of the United States as required by the act granting the lands. It is understood that the improvement is rapidly progressing under the management of the Board.

In the sale of the lands, the thirtieth section of the act entitled "an act creating a Board of Public Works, and providing for the improvement of the Des Moines river," provides that "at the time of the sale, the Treasurer and Secretary shall issue their certificates of the same to the respective purchasers, retaining duplicates thereof, patents shall thereupon issue, signed by the Governor, subject to such regulations as may be prescribed by law."

No regulations have yet been prescribed by law for the issuing of these patents, and I would suggest that the Board of Public Works be authorized to prepare and fill them up, and then forward them to the Executive for his signature.

One of the most important duties devolving upon the General Assembly, at its present session, is the apportionment of the State in accordance with the thirty-first section

of the fourth article of the constitution. I rest assured that you will meet this duty with that deliberation which its proper performance demands.

The remarks in my message delivered at the special session, relative to the unfinished condition, and the necessity of completing the Penitentiary of this State, I respectfully reiterate at the present time.

The Commissioners appointed to revise the statutes of this State, have submitted a report to me, which is herewith transmitted.

The suit relative to the boundary line between this State and Missouri, has, I understand, been taken to the Supreme court of the United States, where it will probably be heard and decided during the present winter.

During the interval between the adjournment of the first General Assembly under the constitution, and the opening of the special session, all of the Judges of the Supreme court of this State, who held their offices by virtue of appointment under the General Government, tendered their resignations to me. The eighth section of the fifth article of the constitution provides that "when any office shall from any cause, become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy, by granting commissions, which shall expire at the end of the next session of the General Assembly, or at the next election by the people." I accordingly filled the vacancies in the Supreme Court by issuing commissions, which, in my judgment, expired at the close of the special session. As the General Assembly neglected to elect Judges during that session, at

its close, I issued commissions to the gentlemen now filling the offices of Chief Justice and Associate Justices of the Supreme Court. Those commissions will expire at the close of the present session, and it will be your duty to elect judges of the Supreme Court in compliance with the constitution and laws.

It will also be your duty to elect two United States Senators. Two sessions of the General Assembly have been held since our State organization, during which the election of United States Senators, and judges of our Supreme Court, were duties enjoined upon it by the constitution. Unfortunately for the State, those duties have not yet been performed. If this result arose from difficulties which presented themselves, and which members felt unable to surmount without further consultation with their constituents, I feel confident that, as you are fresh from the people, you have received such instructions from them, as will enable you to discharge these duties with promptitude and harmony.

I cannot refrain from again impressing upon your minds the propriety of a speedy and energetic discharge of your various duties; that accuracy and dispatch should characterize all of your proceedings; that no matters foreign to the interests of the State should be introduced into your deliberations; and may we all so perform our duties as to receive the approbation of the people, of our own consciences, and the approving smile of Heaven.

ANSEL BRIGGS.

IOWA CITY, DECEMBER 5, 1848.

To His Excellency the Governor of Iowa:

The undersigned who were appointed by an act of January 25th, 1848, to draft, revise and prepare a code of laws for the State of Iowa, beg leave to report:

That they have not been able to complete the task assigned them, and that it will require from three to five months in order to mature their work.

The great mass of the work is in writing, but we have not been able to give it that consideration which it demands before it is presented. The work of revising and writing *alone* has required the greater portion of the time since it was commenced. To *digest* it is the more important part of our task, and which remains to be done.

The importance of the work, and the consequences which will flow from a good or bad performance of it, are so great, that the undersigned are not willing to pass it without the most mature care. The revised code is intended to be a *permanent* work. All future legislation will have relation to it. If it is made complete and harmonious, but little legislation will be hereafter required on subjects of a general nature. If it is left incomplete and incongruous, it will require repeated amendments and alterations, until we shall no longer have a *code.* Unless such a work receives the maturest care and consideration, it were as well if it were not undertaken.

Your excellency will permit us to suggest that in no case, we believe, has a *whole* code of Statute law been prepared in one year. In Massachusetts two years were allowed three commissioners to prepare the criminal portion alone of their code. The commissioners of the revision in New York, at the end of the first year reported upon only one department of the Statute law.

You will permit us to suggest further, that several radical changes in important branches were expected in a revision, and though the undersigned are prompt to adopt such, yet they should not be made without the most mature consideration.

In presenting these views, sir, we have (in the words of our oath) "an eye single to the good of the people of Iowa;" and in present-

ing them, we trust we shall receive the indulgence of the General Assembly.

If we were permitted a suggestion, it would be, that the present session be made a brief one, and that an adjournment take place to a future day some months hence.

We are your Excellency's
With sentiments of
High consideration,

W. G. Woodward,
Charles Mason,
S. Hempstead.

Iowa City, Dec. 4th, 1848.

SECOND BIENNIAL MESSAGE

DECEMBER 3, 1850

From the Journal of the House of Representatives, p. 8

Gentlemen of the Senate, and House of Representatives:

Since the close of the last session of the General Assembly, it can with propriety be said that, as a people, we have enjoyed the blessing of general health. It is true, some portions of our State have, for a short period, been visited by a malignant disease, which, in other States of our confederacy, has carried thousands to the tomb, yet within our own borders, through the mercy of the sovereign Ruler of the Universe, its fierce ravages have been stayed, and but a small number of our people have fallen victims before the destroyer; though that number, small as it was, embraced some of our most prominent and distinguished citizens. While we deeply sympathise with those who are filled with sorrow for the loss of relatives and friends, our hearts should overflow with gratitude to Him who directs the pestilence, for the evidence he has given us of his kind care and consideration, and for the many and great blessings which he has showered upon our State and country.

Notwithstanding the prevalence of the disease as above mentioned, Iowa has steadily increased in population and wealth; her energies have been strengthened; her resources are being constantly developed; emigration is rapidily pour-

ing in upon and spreading over her broad and fertile domain; and the evidence of enterprise and prosperity can be seen on every hand. Should we continue to be blessed by the smiles of Providence, we have every reason to believe that our course will continue to be onward and upward.

The following statement exhibits the amount of the receipts and disbursements of the Treasury, from the report of the Treasurer, bearing date October 31, 1848, up to November 4th, 1850.

	RECEIPTS.	PAYMENTS.
Amount in Treasury October 31, 1848	$ 1,394.40	
Amount received up to March 5th, 1849	24,924.47	
Amount disbursed up to March 5th, 1849		$22,976.55
Amount received up to June 4th, 1849	18,281.32	
Amount disbursed up to June 4th, 1849		15,890.89
Amount received up to November 5th, 1849	7,067.85	
Amount disbursed up to November 5th, 1849		13,280.19
Amount received up to March 4th, 1850	30,689.60	
Amount disbursed up to March 4th, 1850		26,108.63
Amount received up to September 2d, 1850	7,666.94	

	RECEIPTS.	PAYMENTS.
Amount disbursed up to September 2d, 1850		$ 11,586.74
Amount received up to November 4th, 1850	$ 429.75	
Amount disbursed up to November 11th, 1850		599,94
Total amount of receipts and disbursements to November 4th, 1850	$90,444.33	$90,442.94
Balance in the Treasury	1.39	

By the Auditor's Report of December 4th, 1848, it will be seen that the liabilities of the State on outstanding warrants, at that time amounted to $22,651.62. From that period up to November 30th, 1850, the receipts of the treasury were $90,444.12, and the expenditures $90,442.94. This latter sum embraces the interest paid on the State loan, and $11,685.75 of the liabilities on the 4th of December, 1848; thus decreasing our liabilities on outstanding warrants, on the 30th of November, 1850, to $10,965.87. The resources to discharge these liabilities, and to meet the expenses of the coming year, are $24,154.83, due from the counties, prior to the year 1850, and the revenue assessed in 1850, amounting to $56,538.33. The revenue for State purposes in 1848, amounted to $36,129.05, consequently, the assessment of 1850, shows an increase of the revenue from taxable property within the State, of $20,409.28. Should the revenue continue to increase in the same proportion, we may reasonably expect that our State will, in a few

years, be freed from all incumbrances. For further information in regard to our financial condition, I respectfully refer you to the Auditor's Report.

By an act approved Jan. 16th 1847, I was authorized to agree with the State of Missouri, for the commencement and termination of such suit as might be necessary to procure a final decision by the Supreme Court of the United States, in regard to the southern boundary line of the State; and I was also required to employ counsel to conduct the suit on our part, and to do whatever might be necessary to maintain our rights in the premises. In pursuance of the authority thus granted, I did, in the following February, appoint the Hon. Charles Mason of Burlington, to act as counsel on behalf of the State; and I also immediately afterwards notified the Governor of Missouri of the passage of the above mentioned act, and of the appointment of Mr. Mason. On the 2nd Monday in June, 1847, the counsel on both sides met and agreed to institute an amicable suit. The cause came on for argument before the Supreme Court in February, 1849. It appears from the fact set forth in the decree of the Court, that in 1816, the United States caused to be run and marked two lines as part of a boundary between the United States and the Great and Little Osage Nations of Indians; the first line beginning on the eastern bank of the Missouri river, opposite the middle of the mouth of the Kansas river, and extending north one hundred miles, where a corner was made by Mr. Sullivan, the surveyor acting on behalf of the United States, and the Osage Nations, that from that corner a second line was then run and marked by the Surveyor, which was intended to be

run due east, on a parallel of latitude, but which, by mistake, varied about two and one-half degrees towards the north of a due east and west line; that that portion of territory west of Sullivan's first line, and between the same and the Missouri river, was added to Missouri by an act of Congress of June 7th, 1836; and the court accordingly decreed that "the true and proper northern boundary line of the State of Missouri, and the true southern boundary of the State of Iowa, is the line run and marked in 1816, by John C. Sullivan, as the Indian boundary, from the northwest corner made by Sullivan, extending eastwardly, as he run and marked the said line, to the middle of the Des Moines river, and that a line run due west, from said northwest corner to the middle of the Missouri river, is the proper dividing line between said State west of the aforesaid corner; and that the States of Missouri and Iowa are bound to conform their jurisdiction up to said line on their respective sides thereof, from the river Des Moines to the river Missouri."

Our State now embraces the territory lying between the line run by Missouri in 1837, as her northern boundary line, from the river Des Moines due west to the Missouri river, and the line established by the decree. Every citizen of the State must feel gratified that the vexatious question concerning our southern boundary, is at length settled. The condition and wants of the territory acquired will, I trust, receive your early and earnest attention.

Joseph C. Brown of the State of Missouri, and Henry B. Hendershott of the State of Iowa, were appointed Commissioners by the United States Supreme Court, to survey

and mark the line fixed by the decree, and make returns to the Court on or before the first day of January, 1850. Mr. Brown having died previous to executing his duties, Robert W. Wells, of Missouri, was appointed in his place. The Commissioners were further ordered by the Court, to correspond with the Chief Magistrate of Missouri and Iowa, and request the cooperation and assistance of the State authorities, in the performance of their duties.

In a communication received by me from Mr. Hendershott, under date of May 57th, 1848, [May 27, 1849] he suggested the propriety of the authorities of Iowa and Missouri immediately making some arrangements by which the Commissioners would be furnished funds to enable them speedily to prosecute their duties. The suggestion appeared to me both reasonable and proper; and as the legislature had made no provision for such services—as the Commissioners had been ordered by the Court to request the aid of the State authorities—and as it was of the highest importance that the boundary line should be marked as speedily as possible, I conceived it my duty to furnish Mr. Hendershott with a portion of the means necessary to prosecute the duties assigned the Commissioners.

Being unable to obtain the funds in any other quarter, I was compelled, though with great reluctance, to solicit from the Superintendent of Public Instruction, a loan from the School Fund, which I obtained to the amount of $2,000, and gave my individual promissory note, (secured by bond,) for its repayment—which note bears interest according to the law in regard to the loaning of the School Fund, and is due and payable on the 15th of September, 1849—and

placed the money in the treasury, subject to the order of Mr. Hendershott.

Should you coincide in the opinion that the pressing emergency justified the course pursued by me, I would recommend that an appropriation be made to replace, as speedily as possible, the money thus withdrawn from the School Fund.

In a communication from Mr. Hendershott, under date of October 23d, 1850, I have been informed that the Commissioners completed their work on the 18th day of September last, and that a return of the survey was filed by him in the office of the Secretary of State, on the 17th day of October following. Mr. Hendershott further informs me that "the amount of money expended by Iowa is $2,180.33, and the amount expended by Missouri is $2,099.86 cents. These sums, ($4,280.19,) include every expense incurred, except for instruments, (which are yet on hand) and such compensation as may be made to the Commissioners, and such further compensation over and above $3.00 per day, as shall be allowed the Surveyors, whose duties were arduous, and faithfully discharged. This matter should also receive your attention.

The communications of Mr. Hendershott, one bearing date May 27th, 1849, and the other October 23d, 1850, are herewith submitted.

Great credit is due Mr. Mason for the zeal, industry and ability shown by him in the management of the suit on the part of the State. He thought proper to secure the services of a distinguished lawyer of another State, as assisting counsel, informing him at the same time, that he had no

authority to employ additional counsel, but that if he would undertake the case, the Legislature would, no doubt, grant him a reasonable compensation. From the magnitude of the case, and the great interests involved, this step on the part of Mr. Mason was, most unquestionably, dictated by prudence and sound policy. It would therefore be proper that such an appropriation be made, as in your judgment will be a reasonable and adequate compensation for the services thus rendered.

The act for the settlement of the boundary line, appropriates $1,000 to carry the same into effect. That amount has been drawn from the treasury by Mr. Mason. By reference to his report—which is herewith submitted—it will be seen that his expenses in travelling to different points to take depositions, collect testimony, etc., and his expenses at Washington, amount to $980.00, which nearly covers the sum appropriated, and leaves him a mere pittance for his time and labor—justice would seem to demand that an additional appropriation should be made in his favor.

It is to be hoped that a very considerable portion of your time and attention will be expended in efforts to perfect our system of Common School education. The law passed at the last session of the Legislature, cured many of the defects existing in the previous law; but there are deficiencies in the present law which demand your action. It is expected that the Commissioners appointed to revise the code, will examine the School Law, and either present a new one, or prune away the excresences, and supply the wants of the one now on the statute book. The report of the Superintendent of Public Instruction, together with the report of

the Commissioners will, doubtless, materially aid you in determining what measures are necessary to advance the interests of Common Schools.

The Superintendent of Public Instruction, in his last report to the Legislature, takes the ground that some plan ought to be adopted whereby the expenses attending the management of the School Fund may be decreased. To remedy the evil, he recommends that the law providing for county Fund Commissioners be abolished, and the office of State School Fund Commissioners created. The labors of the county Fund Commissioners are arduous and complicated, and it may be questionable whether a State Fund Commissioner could properly attend to them. The Superintendent may, possibly, submit a different plan in his forthcoming report to you. Any scheme which you may adopt, whereby the objection may be wholly, or in part removed, would certainly be desirable.

The Constitution provides, in the second section of the tenth article that "the General Assembly shall encourage, by all suitable means, the promotion of intellectual, scientific, moral and *agricultural improvements.*" No steps have been taken by the Legislature, since the adoption of the Constitution, for the advancement of agriculture. This portion of the Constitution is as obligatory and binding as any other. It was probably inserted for the reason that our State has every facility for becoming, in an eminent degree, an agricultural State. The best method of cultivating the soil is, and it is believed ever will be, a subject of the first importance to a large majority of the citizens of the State. The greater portion of those who attend our Com-

mon Schools will become agriculturalists, when the term of their education expires; and consequently, any knowledge which they may obtain, touching that branch of industry, will be to them of the most essential service. It would therefore seem to become your duty to enquire whether books relative to agricultural science, can, with propriety, be introduced into our Normal and Common Schools. I feel confident that, if introduced, the most beneficial results may be anticipated.

The formation of agricultural societies should also be encouraged; and I trust that any facilities which you can supply, for the promotion of such societies, will be cheerfully granted.

A law was passed at the last session for dividing the State into three districts, and for the establishment of a Normal School in each district, for the education of school teachers and others. The State has been thus divided, and a board of trustees appointed for each district, as required by the act. The law further provides that the Schools shall be established at Andrew, Oskaloosa and Mount Pleasant. The school at Andrew commenced on the 21st of November, 1849. It is now under the Superintendence of teachers who are graduates of the New York State Normal School—a respectable number of pupils attend the institution, and its prospects are flattering. The trustees are erecting a building for the use of the school, at an estimated cost of $2,500 about $1,000 of which has been already expended. A very commendable zeal is manifested in that quarter for the support of the school. It is understood a similar feeling exists in each of the other districts, although I am not able

to state the progress of those schools. That information you will probably obtain from the Report of the Superintendent of Public Instruction.

Wherever the Normal system has been in operation, in other States, the most fortunate results have been experienced. By the annual report of the executive committee of the State Normal School of the State of New York, made to the Legislature of that State, on the 11th of February, 1850, it appears that the first term of that school began on the 18th of December, 1844. From that period up to the time the report was made, four hundred and twenty-eight pupils had graduated, and a large proportion of them had accepted situations in Common Schools; and, with few exceptions, had acquitted themselves in such a manner as to do honor to the school. The committee are of the opinion that these teachers have caused great improvement in the schools where they have taught, and that they have been highly instrumental in advancing the cause of Common School education.

Permit me to express the hope that the Normal Schools established in our State, will receive the fostering care of the Legislature. If there exists any opposition to them, it would seem to spring from a misapprehension of their objects. It is understood that there are two features characterising them which are not found in other schools or academies: First, the State pupil is required to devote his attention exclusively to obtaining an education, and to such studies as will qualify him to perform, in a superior manner, the duties of a Common School teacher; and, secondly, he is required to learn the best mode of communicating to

others the knowledge which he has obtained. As experience teaches that these schools are productive of much good, any measures adopted by you which will conduce to their permanent prosperity, will, I feel assured, meet with the hearty approbation of the friends of education throughout the State.

Hon. Josiah H. Bonney was appointed by me to procure a suitable block of marble, to be furnished by the State of Iowa, for the Washington Monument. He has discharged the duty assigned him, as will be seen by his letter to me of November 30th, 1850, which is herewith submitted.

The Commissioners to revise the Code, have informed me that their labors are nearly completed. A portion of their report is herewith submitted.[1]

The Board of Public Works have not made their report to me, as required by the statute. Some justifiable cause has, undoubtedly, produced the delay.

The first section of the seventh article of the Constitution, provides that the militia of this State shall be composed of all able bodied white male citizens, between the ages of eighteen and forty-five years; except such as are or may hereafter be exempt by the laws of the United States, and shall be armed, equipped and trained as the General Assembly may provide by law.

In my last Message I presented the number of all able-bodied white male citizens, between the ages of eighteen and forty-five years, subject to military duty, in each of the counties which had been reported to me, in accordance with an act entitled "an act requiring the assessors to take lists of persons subject to military duty, approved Jan. 25, 1848,

[1] See note below, p. 411.

and urged an organization of the militia as speedily as practicable. No steps, however, were taken by the last General Assembly to effect that object. The 3d section of the above mentioned article of the Constitution provides that "all commissioned officers of the militia (staff officers excepted) shall be elected by the persons liable to perform military duty, and shall be commissioned by the Governor." The militia law is at present a dead letter upon the statute book. Some measures should be taken to arrange the militia into divisions, brigades, regiments, &c.; to provide for the election of officers in accordance with the Constitution; and to provide further for such an enrollment as will enable the State to draw her quota of arms from the General Government.

At the last session of the Legislature, joint resolutions were passed instructing our Senators and requesting our Representatives in Congress to procure from the Government of the United States grants of land to aid in the construction of a Rail Road from Dubuque to Keokuk, and also one from Davenport to some suitable point near the Council Bluffs, on the Missouri river. Our delegation in Congress have labored faithfully to obtain these grants, but their efforts have, as yet, been unsuccessful. The attention of that body has, in a great measure, during the last session, been directed towards the adjustment of difficulties which threatened to disturb the harmony of our Union. I conceive it the duty of the Legislature to press upon Congress the necessity and importance of these works. Further applications, seconded by the exertions of our Senators and Representatives may, and undoubtedly will, secure the desired donations.

The Legislature appropriated the sum of three thousand dollars towards the completion of the public buildings in this City. The money to be expended under the superintendence of Hon. Joseph T. Fales. Most of the improvements specified in the act have been made, and they add much to the appearance and convenience of the buildings. A further appropriation will be needed to finish the work according to the original plan.

By an act entitled "an act relative to the Penitentiary," approved January 13, 1849, Mr. A. H. Haskell was appointed Superintendent of that institution, and entered upon the discharge of the duties of his office on the 16th day of March following. His report of April 23d, 1849, exhibits an inventory of the property pertaining to the prison, amounting in value to the sum of $825.60. The act appropriates $6,000 for repairs upon the building, which sum has been drawn by Mr. Haskell, and expended, as will appear from his report of November 28th, 1849. In April last, I received information of his death, and by virtue of the authority granted me by the 16th section of the act, I appointed Mr. John Scott, of Lee county, to fill the vacancy. For information concerning the condition of the Prison, at the time Mr. Haskell became Superintendent, and the progress which has been made in repairing the same, I respectfully refer you to his reports, and to those of Mr. Scott, which are herewith submitted.

The Supreme Court has appointed Hon. George Greene, one of their number, to prepare and report the decisions of that tribunal. The first volume of his reports has already been published. The manner in which this work has been

executed, is highly creditable to Mr. Greene, and will favorably compare with the law reports of our sister states. I have subscribed, on behalf of the State, for fifty copies of his first volume, which were deposited in the Secretary's office. A large portion of them have however been subsequently exchanged for the reports of the several states and territories. It will become your duty to make an appropriation to meet the expense incurred on behalf of the State.

From the formation of the Constitution to the present time, there has been no subject which has so seriously threatened the dissolution of the Union, as that of Slavery. That instrument recognizes the system, and provides for the restoration of such slaves as shall escape from their masters, and find refuge in other, or non-slaveholding States. This clause was inserted as a compromise measure, to conciliate and harmonize the differences of opinion existing at the formation of the Constitution, relative to this subject, and to induce the southern States to enter into the federal compact; consequently its letter and spirit should receive a steady and unflinching support from every friend of the Union. Congress, at its last session, passed an act by which that clause of the Constitution could be more effectually carried out. One great object leading to the passage of the law was to exhibit to the slaveholding States, a determination on the part of the National Legislature to protect and enforce all of the rights guaranteed to them by the Constitution, and thus allay any apprehensions which they might experience concerning the security of those rights. Since the passage of that act, a disposition has been manifested in some of

the northern states to resist its provisions. No good citizen of Iowa can, for a moment, sanction or countenance such proceedings. I think I may assert, without fear of contradiction, that the people of this State are a law-abiding people. One of the prominent reasons urged for resisting the law is that it violates that portion of the Constitution of the United States which provides that "the privilege of the writ of *Habeas Corpus* shall not be suspended, unless when in cases of rebellion or invasion, the public safety may require it." It may be well for every citizen to remember, that Congress can pass no law prohibiting the issuing of this writ, unless the contingencies specified should occur. As no "rebellion or invasion" exists now, and did not exist at the time of the passage of the act, the writ of *Habeas Corpus* is in no manner suspended by its provisions.

But whatever differences of opinion may be entertained in regard to this law, it is now our duty to support it so long as it remains the law of the land; and I trust that every citizen of the State will, although he may be opposed to some of its details, as an American citizen and a lover of the Union, stand firmly by it.

I am now about to retire from the office of Chief Magistrate of this State. Four years ago the people thought proper to elect me to that office, and I assumed its duties and responsibilities, distrusting at the same time, my ability properly to discharge those duties. We were then entering upon our career as an independent State; the support which we had heretofore received from the General Government was withdrawn, the machinery of our State government was to be set in motion, and the means obtained to support it.

Relying upon the assistance of the General Assembly, and the various officers of the State, I entered upon the discharge of my duties. You are familiar with the course which I have pursued. Whether it has been calculated or not to advance the interests of the State, you and the people are the judges. During my administration I may, and undoubtedly have, committed errors; but if such be the case, I shall ever be supported by the reflection that they sprang from no vicious or wrong motive. The courtesy and assistance extended to me by the Legislature, and by all connected with the government, will ever be a subject of grateful remembrance. In laying down the reins of government, I feel an additional gratification in the assurance that they are to be transferred to more able and competent hands. Permit me, in retiring, to express the fervent desire that this, my adopted State, may ever be distinguished for virtue, intelligence, and prosperity, and may she ever receive the care and protection of that Being who governs the Universe.

ANSEL BRIGGS.

IOWA CITY, DECEMBER 3, 1850.

[Accompanying Governor Briggs' message of December 3, 1850, there were four documents. (1) A report from Charles Mason relative to the Missouri Boundary Dispute Case in the Supreme Court of the United States. (2) A communication from H. B. Hendershott relative to a survey of the boundary between Iowa and Missouri. (3) A communication from Josiah H. Bonney relative to a block of marble for the Washington Monument. (4) A brief report from W. G. Woodward, Charles Mason, and S. Hempstead—Code Commissioners. See Journal of the House of Representatives of the 3d regular session of the General Assembly, pp. 19–26.]

VETO MESSAGE

JANUARY 25, 1848

From the Journal of the House of Representatives, p. 188

EXECUTIVE OFFICE, IOWA CITY, January 25, 1848.

The Bill entitled "An Act for the relief of H. H. Hendrix and Edward Pedigo," being of such a character as to compel me to withhold my approval, I herewith return the same to the House of Representatives, where it originated, with these, my objections.

It appears that Hendrix and Pedigo, at the September Term, A. D. 1846, of the District Court of Wapello county, entered into recognizance for the appearance of James V. Potts, to answer to an indictment found against him in said Court. Potts failed to appear, and the object of this bill is to relieve Hendrix and Pedigo from the penalty of the recognizance.

The recognizance was entered into in compliance with the laws of the State, in such case made and provided. Those laws were enacted for the purpose of securing the appearance, before the proper judicial tribunal, of persons charged with indictable offences. Such laws, all must admit, are salutary, and, indeed, absolutely necessary. If so, and if they ought to operate upon one, they should operate upon all, unless special reasons are assigned. In the absence of such reasons, in my judgment, the law ought to be allowed to take its course. Should the bill pass into a law, I fear it would establish a pernicious precedent, and one at war with sound policy.

ANSEL BRIGGS.

SPECIAL MESSAGES

TO THE SENATE

DECEMBER 10, 1846

From the Journal of the Senate, Appendix, p. 321

To the Senate:

IOWA CITY, December 10th, 1846.

Gentlemen—In compliance with a resolution of the Senate of the 7th inst., requesting to be furnished with such information as may be in the possession of the Executive, in relation to the southern boundary of this State, I herewith transmit a communication from his Excellency James Clarke, accompanied by communications from David Rorer, Esq. on that subject. As this is a subject of great importance, and as the establishment of the true boundary line between the two States of Iowa and Missouri depends, in a great measure, upon the evidence of individuals, who may either die or not be found when wanted, it is very desirable that a law be enacted, as speedily as possible, by which an agreed case may be made with Missouri for the adjustment of the whole matter by the Supreme Court of the United States. I therefore recommend your early action upon this subject.

ANSEL BRIGGS.

[The documents accompanying this message will be found in the Journal of the Senate, appendix, pp. 322–326.]

TO THE SENATE AND HOUSE OF REPRESENTATIVES

DECEMBER 8, 1848

From the Journal of the House of Representatives, p. 65

Gentlemen of the Senate and House of Representatives:

The act entitled "An act creating a Board of Public Works and providing for the improvement of the Des Moines river," approved February 24th, 1847, requires the Board to make report to me, on or before the first day of every regular session of the Legislature. That report has this day been received, and I herewith transmit it to you, togetherwith the report of the Engineer upon the Works.[1]

ANSEL BRIGGS.

IOWA CITY, DECEMBER 8, 1848.

TO THE HOUSE OF REPRESENTATIVES

DECEMBER 12, 1848

From the Journal of the House of Representatives, p. 179

Gentlemen of the House of Representatives:

In compliance with a resolution which passed the House of Representatives, the 11th inst., requesting me to inform the House "whether the Commissioners appointed to revise the laws of this State, are now, or ever have been, in ses-

[1] This report, covering 27 pages, appears in full in the Journal of the House of Representatives of the Second Regular Session of the General Assembly, p. 66.

sion, for the purpose for which they have been appointed; and if so, whether they have prepared, examined or considered any one bill or bills, or whether they have, in any manner, performed any portion of the duties devolving upon them as Commissioners to revise and report a code of laws." I would respectfully state that all the information in my possession relative to the proceedings of the Commissioners, I have obtained from their report to me; which report I have transmitted to the Legislature. It is, therefore, impossible for me to give any further answer to the interrogatories contained in the resolution.

ANSEL BRIGGS.

IOWA CITY, DECEMBER 12, 1848.

TO THE HOUSE OF REPRESENTATIVES

DECEMBER 15, 1848

From the Journal of the House of Representatives, p. 198

Gentlemen of the House of Representatives:

In compliance with a resolution which passed the House of Representatives, on the 13th inst., requesting me to inform the House whether I have received any report "from the Commissioners appointed to locate a seat of government for the State of Iowa, and if so, to send a copy of such report to the House," I cheerfully transmit the record taken from the office of the Secretary of State, containing the report of said Commissioners to me, the number of lots sold

by said Commissioners, the names of the purchasers, the amount for which the lots sold, together with a plat of the survey of the contemplated seat of government.[1]

ANSEL BRIGGS.

IOWA CITY, DECEMBER 15, 1848.

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[1] The report of the Commissioners, covering 12 pages, appears in full in the Journal of the House of Representatives of the Second Regular Session of the General Assembly, p. 198.

PROCLAMATIONS

ON THANKSGIVING

NOVEMBER 1, 1847

From the Iowa City Standard, N. S., Vol. II, No. 14, Nov. 24, 1847

In conformity with an established custom in most of the States of our highly favored Union, and likewise having been requested so to do, from several portions of our fair State, I have thought proper to appoint Thursday the 25th day of November inst., as a day of General Thanksgiving and Praise to Almighty God, in the State of Iowa, and I do hereby recommend that all christian denominations in the State, meet together at their usual places of worship, and return thanks to the Great Disposer of events for the manifest blessings which have been showered upon us during the last year. It has been unusually healthy. The garners of the Husbandman are full to overflowing. The tide of emigration is rolling rapidly into Iowa, and above all the Christian Religion is advancing with rapids strides, and although our country is engaged in war with a *semi*-barbarous nation, our thanks are especially due for the numerous and important victories which we have been enabled to gain over them notwithstanding the numerical inferiority of our forces. For all and every blessing it is the bounden duty of an enlightened people to return thanks to the Great Creator. No nation of the earth has been so highly favored

as ours, and no State in our Union has made more rapid strides in the advancement of Education, Commerce and Agriculture than Iowa. Then let us all assemble on the 25th inst. and not only return thanks for the blessings which we have, but humbly and with faith ask for a continuance of the same.

In testimony whereof, I have hereunto subscribed my name, and caused the Great Seal of the State
(L. S.) to be affixed at Iowa City, this first day of November, 1847.

ANSEL BRIGGS.

By the Governor:

ELISHA CUTLER, JR., Secretary of State.

CALLING A SPECIAL SESSION OF THE GENERAL ASSEMBLY

DECEMBER 3, 1847

From the Iowa City Standard, N. S., Vol. II, No. 17, Dec. 15, 1847

To the Members of the Senate and House of Representatives of the State of Iowa:

By virtue of authority vested in me by the ninth section of the fifth article of the Constitution of the State of Iowa, and believing that occasions contemplated by said section, have arisen which render it incumbent upon me to exercise the power thus granted, I have therefore thought proper to appoint, and do hereby designate and appoint, MONDAY THE THIRD DAY OF JANUARY NEXT, as the day

upon which you will convene in Special Session at the Capitol in Iowa City.

In Testimony Whereof, I have hereunto subscribed my name, and caused the Great Seal of the State to be affixed, at Iowa City, this third day of December, in the year of our Lord one thousand eight hundred and forty-seven, of the Independence of the United States the seventy-second, and of this State the second.

SEAL.

ANSEL BRIGGS.

By the Governor:

ELISHA CUTLER, JR., Secretary of State.

GOVERNOR STEPHEN HEMPSTEAD

BIOGRAPHICAL SKETCH

Stephen Hempstead, the second Governor of the State of Iowa, was born October 1, 1812, at New London, Connecticut. His family name, being one of the oldest in America, first appears in the early records of Connecticut in the year 1645. In 1828 the family to which Stephen Hempstead belonged came West and settled on a farm near Bellefontaine, about five miles north of St. Louis.

In 1830 Stephen Hempstead went to Galena, Illinois, where he found employment as clerk in a store. Later he entered a company of artillery which was engaged in the Black Hawk War. After the close of the war, Mr. Hempstead went to college at Jacksonville, Illinois. In 1833 he left college, returned to St. Louis, studied law one year, and then went back to Galena, Illinois. Here he completed his study of law under his uncle, Charles S. Hempstead, and was admitted to practice in the courts. In 1836 he removed to Dubuque where, it is said, he was the first attorney to enter upon the practice of law.

In 1838 Mr. Hempstead was elected a member of the First Legislative Assembly of the Territory of Iowa. At the second session of the Legislative Assembly he served as President of the Council. In 1845 he was again elected a member of the Legislative Assembly, and again served as President of the Council. In 1844 he was a member of the first Constitutional Convention. Later he served as one of

the committee of three commissioners who drew up the compilation known as Iowa Code of 1851.

In 1850 he was elected Governor of Iowa on the Democratic ticket. After serving as Governor of the State four years, he was elected to the office of County Judge of Dubuque County. Later he held the office of County Auditor for a number of terms. When he died in February, 1883, he was serving as a Justice of the Peace.

Stephen Hempstead married Lavinia Moore Lackland in 1837. They had three sons and three daughters.

Bibliographical Note.— The most complete and satisfactory biography of Stephen Hempstead is found in the *Iowa Historical Record*, Vol. I, p. 3.

INAUGURAL ADDRESS

DECEMBER 4, 1850

From the Journal of the House of Representatives, p. 32

Called to the executive chair of the State of Iowa, by the free suffrages of my fellow citizens, a frank expression of gratitude is due to them for the distinguished honor which they have conferred upon me, and of the leading principles which will govern me in the discharge of my official duties under the Constitution and laws, with the assurance on my part, that those duties shall be discharged to the best of my ability.

Knowing the fallibility of human nature, let me claim that indulgence for unintentional errors which as reasonable men we should extend toward each other. Elected by one of the great political parties of this State, I cannot expect to escape censure from those who differ from me in political sentiment, and rejoice that we live under a government where every citizen has the right of freely discussing the conduct of public men, and public measures. From this rule I claim no exemption, and ask nothing but justice.

The principles by which I shall be governed in the administration of your affairs, are distinctly marked out in the Constitution of this State, a Constitution which in my judgment is eminently calculated to secure to us the enjoyment of life, liberty, equality, and the pursuit of happiness, or in other words, to secure the great objects for which governments should be established among men; and the prosperity

of the State from its organization to the present time, is a forcible commentary of the justice and wisdom of the policy thus adopted.

By the restriction of State debts, the prohibition of banking and of special acts of incorporation, except for political or municipal purposes, we are secured from many evils which exist in older States, where, in consequence of the establishment and continuance of those institutions, their governments have become complicated, oppressive, and subversive of civil liberty.

With no banks among us to create distress or panic by their failures, contractions, and expansions, with but few corporations except those formed under general laws, our citizens relying on their own industry and frugality, are advancing steadily to competence and wealth, showing to the world that bank indulgences, paper money, and special privileges, are unnecessary to secure to a people happiness and prosperity.

With a soil of great richness and productiveness, a climate salubrious and invigorating, and citizens possessing enterprise and industry, we require nothing more than what is secured by our Constitution; and let me say, if we desire a continuance of that prosperity, the stability of the State and the happiness of our citizens, it can only be accomplished by the enactment of equal and expedient laws, and not by those which are designed to build up and enrich a few at the expense of the many, or by giving one class of citizens privileges not possessed by others. The leading principles of a republican government, as I understand them, are "a perfect equality of political rights, a strict construction of

constitutions, no monopolies, moderate legislation, a revenue meeting the wants of the people, and no more; strict responsibility of public officers, simplicity of the laws, and the least possible restraint upon the mind, person, energy and industry of every man, consistent with the rights of his fellow men."

The best form of government that can be devised, is an abridgment of the natural rights of the citizen, and the laws necessary for the purposes of such government are sufficiently complicated and burthensome without adding to them those designed to regulate the conduct of persons upon mere questions of morality, when such objects can only be reached by the force of public opinion, and that alone; yet such laws are not unfrequently placed upon the statute books, where they remain without being enforced, or if exercised, can only be carried into effect when and where a temporary excitement prevails, and then frequently to gratify malice or revenge. If such laws are necessary, they should be enforced and sustained; if they cannot be enforced and sustained, they are unnecessary and should not be enacted.

It is made my duty by the Constitution, to see that the laws are faithfully executed. Experience shows us that in just proportion to their observance, is the peace and prosperity of our government. This extends not only to such laws as we believe to be right, but to all such as are lawfully enacted, until they are repealed, or declared unconstitutional by the judicial tribunals. While we have the ballot box and the courts, whatever may be the private opinion of any citizen, or class of citizens, upon such law, obedience

to its requirements is an unavoidable duty. So far as any responsibility may rest on me, or power be entrusted, I shall neither hesitate to assume the one, or exercise the other, if necessary to ensure their prompt observance; and in this I am satisfied that I would have the countenance and support of my fellow citizens. My hope and confidence however is, that there will be no occasion when it will become necessary to assume or exercise the power thus given.

I cannot doubt that a prompt obedience, in all cases, and a fair construction, according to the purpose intended, of every law, whether state or national, will be yielded by every good citizen. So far as our national laws are concerned, we are bound further to such observance by a solemn compact with the other States of this Union, and no citizen who loves that Union will violate its laws, or permit others to do so, if in his power to prevent it. It is that Union which gives to the American people rank and power among men and nations—it is that Union which protects our commerce, adjusts the difficulties between States, and defends us from the aggressions of foreign powers. Without union, our independence and liberty could not have been achieved; without union, and the observance of the laws, they can never be maintained.

Desirous of seeing a continuance among us of a republican government, in fact as well as in name, I have thus briefly given my views as to the policy which should be pursued to secure those results, having no other object than to advance our best interests, maintain the honor and dignity of the State, and secure to every citizen the enjoyment of civil liberty. [Stephen Hempstead.]

FIRST BIENNIAL MESSAGE

DECEMBER 7, 1852

From the Journal of the House of Representatives, p. 8

Gentlemen of the Senate and House of Representatives:

You have assembled for the purpose of performing one of the highest and most important functions, of a republican government. To you has been delegated the power, under the Constitution of the State of Iowa, to enact equal and expedient laws for the government of the Commonwealth, of which you are the immediate representatives; and upon the faithful and proper discharge of that duty must depend to a great extent, the prosperity and future welfare of the people whom you represent.

You have assembled under happy auspices—peace reigns over our land—the earth has yielded its bountiful harvest to reward our citizens for their industry—general health prevails, and prosperity seems to smile upon all. For these manifestations of a wise Providence we should be grateful.

Since the last session of the General Assembly, the people of this State, in common with all the States of the Union, have been called upon to mourn the loss of some of our most eminent statesmen—men who for almost half a century, by their greatness of intellect and eloquence, have stood the first in our national councils; men whose history whatever errors in judgment they may have committed, will rank among the first of the age in which they lived. I

allude to John C. Calhoun, Levi Woodbury, Henry Clay and Daniel Webster.

But six years have elapsed since the organization of the state government of Iowa. At that time as near as can be estimated, the number of inhabitants amounted to seventy-eight thousand nine hundred and eighty-eight. By the census taken by the United States in eighteen hundred and fifty, we find a population of one hundred and ninety-two thousand two hundred and fourteen. And by the returns of the State census for the present year, an increase of thirty-seven thousand seven hundred and eighty-six. Taking into consideration the emigration to Oregon and California, I may well say that the increase has been commensurate with the most sanguine expectations.

In the State of Wisconsin, laws have been passed authorizing the appointment of a commissioner of emigration, to reside in the city of New York, whose duty it is to give emigrants the necessary information as to the soil, climate, and the branches of business to be pursued with advantage, and to protect as far as practicable, such persons against the impositions often practiced upon them. I submit to your consideration whether the appointment of such an officer, under proper regulations, would not be highly beneficial to this State, and to those who might be disposed to become citizens among us.

In a State in the condition of ours, no subject can claim a more pressing interest than that of public instruction. In older communities, under our government of popular opinion, it justly takes the first rank, but here, recently embarked upon the experiment of a state government, with a popula-

tion rapidly increasing by emigration, scattered over a great extent of country, and many of them destitute of the ordinary means of civil instruction, no object can appeal in stronger terms to your fostering care. In view of the great importance of this subject, I would respectfully suggest the propriety of a careful revision of the laws which have been heretofore enacted realtive to the establishment of common schools and the State University, to secure simplicity and economy in this department of our government. And you will undoubtedly be aided in your deliberations by the report of the Superintendent of Public Instruction, which will be laid before you. The first great object should be to place within the reach of every child in the state, the opportunity of acquiring those indispensable elements of education, which shall fit him for the enlightened discharge of civil and social duties to which he may be called.

I need not remind you that our Constitution requires the General Assembly to encourage, by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvement.

Our financial condition is at all times a subject of the deepest interest, not only to the people themselves, but to their Representatives, as it is to their action that the people must look for the security of their credit, the preservation of their faith, and the exemption from unnecessary burthens. By the report of the Treasurer of State herewith submitted it will be seen that there has been received into the treasury, from the second day of December, 1850, to the thirty-first day of October, 1852, the sum of one hundred and thirty-nine thousand six hundred and eighty-one dollars, and

sixty-nine cents. Balance received from former Treasurer one dollar and thirty-nine cents, making an aggregate of one hundred and thirty-nine thousand six hundred and eighty-one dollars and eight cents. The disbursements for the same period are one hundred and thirty-one thousand six hundred and thirty-one dollars and forty-nine cents, leaving a balance in the treasury, at the latter date, of eight thousand and fifty-one dollars, and fifty-nine cents.

By the report of the Auditor of State, which will be laid before you,[1] the funded debt of the State amounts to eighty-one thousand seven hundred and ninety-five dollars, seventy-five cents, of which amount, twenty-six thousand seven hundred and ninety-five dollars, seventy-five cents, are payable at the option of the State. The estimated expenditures for the two years to come, amount to $103,918.90. The estimated resources for the same period, with the balance in the Treasury, amount to $149,119.47, an amount which, after deducting ten per cent. for delinquencies and assessments, as unavailable, will leave a balance of receipts over expenditures, fully sufficient to extinguish all that part of the funded debt of the State, which is payable at its option, and I would recommend that provision be made to pay the same as rapidly as any surplus means may come into the Treasury.

I conceive it to be my duty to direct your attention to the propriety of establishing the office of Attorney General, as such an office is becoming absolutely necessary to protect the interest of the State in the collection of its revenue, and

[1] This report will be found in the Journal of the Senate of the 4th General Assembly, Regular Session, Appendix, p. 1.

in the prosecution and defence of suits in which it is immediately interested. The sums which have been paid for such services, added to the losses which have been sustained from the want of legal skill in cases where the State has been a party, would, in all probability, have much more than paid the salary of such an officer. His services would also be valuable to the various executive officers. Such an appointment would be justified on the ground of economy as well as of necessity.

At the last session of the General Assembly, a proposition was made to establish a State Land Office for the supervision and sale of lands which have been, or might be, granted to the State. Although this proposition was not then favorably considered, yet it is manifest to my mind that such an office ought to be established, under regulations that will prevent inconvenience in the sale of lands, and at the same time secure unquestionable title to the purchaser. Without such an office, I am unable to see how the swamp and other lands of the State, can be prudently and properly managed, and unless our present system should be reformed, much confusion and trouble will be the result.

It is with much satisfaction, that I invite your attention to the affairs of the Penitentiary of this State, and to the reports of the proper officers. The law passed at the last session of the General Assembly for the government of this institution, and the rules and regulations adopted under it, have had a most happy effect in establishing discipline and good order in all it departments. The duties of each officer have been specially assigned. All accounts and proceedings are required to be kept of record, so that a full under-

standing and settlement of all its affairs, might be had at any time without inconvenience.

Being authorized, by an act of the General Assembly, "to take the proper means to cause to be investigated the title by which the State holds the grounds upon which the penitentiary stands," I appointed Curtis Bates, Esq., to make the examination, whose report is herewith transmitted, by which it will be seen that the title to the State has been perfected, and the deed therefor recorded and filed in the proper office. I also, under a joint resolution, approved February 4th, 1851, appointed the same gentleman as a Commissioner "to settle with all persons having claims or unsettled accounts with the penitentiary, including those of John W. Cohick, the books of A. H. Haskell, late superintendent, and of John Scott, his successor;" and who, after a careful examination, make a final adjustment of the claims presented, as will appear by his report which was filed in the Auditor's Office, with the exception of the account against Cohick, upon which a suit has been ordered to be commenced in favor of the State in the District Court of Johnson county. The reports herewith submitted, show the present condition of the penitentiary, and suggest such changes in the law regulating the same as the officers have found to be expedient. Of the $10,000 appropriated by the last General Assembly, $8,736.56 has been expended upon the building and freehold improvements, and $186.04 for appendages, $692.89 for officers' services in part, and $175.00 for rations, leaving $209.51 balance on hand. An omission to provide for paying officers, and an inability to procure rations by contract, created a necessity for an ap-

propriation of this fund in part to those purposes, and I would recommend these points, with the suggestions of the officers to your early attention, to make such provision and change as would seem to be proper. Some further appropriations are also asked for, to pay the present indebtedness, and further enlarge the capacity of the prison by the completion of additional cells and otherwise. Under the able and highly satisfactory management of this institution in the hands of its officers, it is fully meeting the purposes of its establishment, and I would recommend all its interests to your favorable consideration.

By a Joint Resolution approved January 25th 1849, the Treasurer of State was authorized to procure a finely wrought sword, with proper inscriptions, to be presented by the Governor to Capt. Benjamin S. Roberts, of the Rifle Regiment, as a memento of the pride of his fellow citizens of this State for his patriotism and deeds of valor performed by him in the war with Mexico. Capt. Roberts not finding it convenient to visit this State to enable my predecessor or myself to make such presentation in person, I therefore forwarded it to Washington City where under my instruction it was presented in an appropriate manner by Hon. A. C. Dodge, in behalf of the State. In connection with this subject, I may say that while we have justly remembered the living, we have almost forgotten the dead, those of our citizens who volunteered their services to sustain the honor and triumph of our National flag, when our country was supposed to be in danger, when it required brave hearts and strong hands in her defence, and who fell in service or upon the battle fields of Mexico. Would it not be proper

that the State of Iowa should, by a plain and chaste monument, erected at her capital, perpetuate the remembrance of the gallant Mills, of Guthrie, and the patriotic men who have thus fallen? I respectfully make the suggestion, and leave it for such action as may appear to you proper.

The attention of the General Assembly has been frequently called to the organization of the militia of the State, yet no steps have been taken by the people or the legislature to effect it in such a manner as to comply with the laws of the United States, and to enable us to obtain the quota of arms to which we are entitled. The Secretary of State reported to the President the aggregate number of militia for the year 1851, but as there was no proper military organization, the report was declared insufficient as will appear by a communication herewith transmitted. By the laws of the United States and the provisions of our Constitution it is our duty to enroll and organize the militia into divisions, brigades, regiments, battalions and companies; and by a proper officer to report to the President annually, on or before the first Monday in January of each year, our effective military force, with their arms, accoutrements, &c. For the purpose of carrying out the requirements of a constitutional law of our National Government, and to obtain the arms with which the State might be defended by her own citizens, I would most earnestly recommend you to make such provisions as will be proper to effect an object so desirable, and at the same time to establish an Arsenal where the arms and munitions obtained may be safely kept until they should be needed for service. In the month of March, 1851, I received a communication from the Ordnance Department

at Washington, stating that the Secretary of War had directed Major Bell, in charge of the Arsenal at St. Louis to issue upon my requisition arms and accoutrement sufficient to equip two companies of Volunteers at Burlington and Dubuque, to be charged to the State. Accordingly on the 27th day of May following, a requisition was made, and the arms were obtained, and those for the company of Burlington have been delivered. The company at Dubuque not having completed its organization, I directed the arms and accoutrements be sent to the Penitentiary for safe keeping, where, under the charge of the Warden, they might be kept in good order, and be serviceable in guarding the prison.

Among the many important questions which will come before you for deliberation, will be the amendment of the laws now in force in this State, and to which I would especially call your attention. It will be remembered that in the year of 1848, a committee of three persons were appointed to draft, revise and prepare a code of laws for the government of the State; and having completed their work, they at the session of the General Assembly of 1850 and '51, made their report, which having been amended, was passed and went into force on the first day of July following. This body of laws was prepared, amended and published with great care and expense, and is entitled to your careful and candid consideration.

Like everything else of human origin, it has omissions and imperfections, and it is your province to make such amendments as are necessary, and which in your judgment will advance the public good. I need not remind you that in making such amendments, much care and deliberation should

be used in order to prevent conflicts and uncertainties; or that much mischief has arisen from the instability and inconsistency of legislation. Laws are enacted at one session, and before their utility can be tested, or they can be fairly understood, they are modified or repealed; and often in such a manner as to leave the public and those who are to administer them, at a loss to know what has been abrogated or what is in force. To avoid this state of things let me suggest that your acts be expressed in plain and concise language, and that they be as few and as simple as possible, consistent with the necessities and principles of the government under which we live.

For the purpose of directing your attention to such parts of the code of laws as may be defective in any particular, it is made the duty of each of the Judges of the Supreme and District Courts to report to the General Assembly, at each regular session thereof, all omissions, discrepancies or other evident imperfections of the law, which have fallen under his observation, and I would recommend such reports to your careful consideration.

In view of this duty, there is only one subject to which I would call your special attention, and that is the law regulating the sale of intoxicating liquors. This law removes all restraint from the traffic in such liquors, as articles of merchandise, but prohibits the retail to be drank upon the promises, under severe penalties; placing the enforcement of its prohibitionary provisions under the exercise of the criminal jurisdiction of courts and juries. Until within a comparatively recent period, the use of spirituous liquor, has been generally looked upon without disapprobation. More

recently public opinion has changed to a considerable extent, and in producing this result society is indebted to moral and educational influences more than to any other cause. My mind is strongly impressed with the belief that to such means, must be entrusted the hopes of future success. In a popular government, where the laws are in the hands of the people, legislative power, to be effective upon questions which come directly in conflict with natural right, cannot advance beyond public opinion. The first effort of this power was to limit the sale of such liquors through the local authority requiring a license with bail and other regulations. Thus far the law was sustained and its penalties were enforced. More recently attempts have been made to extend this power, by experimental legislation, more or less stringent. Of such a character is the law now in force. And I submit to you, while it has existed, whether general experience has not shown that its prohibitory provisions stand upon our statute book without being observed while the general license to sell as an article of merchandise has extended the traffic without control. There is an inconsistency in the practical operation of this law not reconcilable with the object intended, which suggests an additional reason for a change. Drunkenness and immoralities arising from the use of ardent spirits, may be punished as crimes, but it is doubtful whether any legal enactment will prevent its being sold by retail, while a general sale is allowed as an article of merchandise. It would seem, therefore, that a judicious license system, placed under the control of the local authorities, could be made more efficient for good than other legislation. With these views I submit the subject to your care.

In pursuance of a law of the last General Assembly relative to the Des Moines River Improvement, I proceeded at an early day to fill the offices of Commissioner and Register as therein provided, by the appointment of Gen. V. P. Van Antwerp as Commissioner, and George Gillaspy, Esq., as Register, who after being duly qualified, entered upon the discharge of the duties required of them. Fully aware of the great importance of this work and of the deep interest felt in its earliest completion, these gentlemen proceeded at once to ascertain its true condition, and so far as practicable to do what might be in their power to carry it forward to completion. The result of their labors during the first year will be found in their first annual report, made to me in pursuance of law, and which is herewith submitted for your consideration.[1] By this report it will be found that all work, or very nearly so, when these officers entered upon the discharge of their duties, was suspended. There were no funds on hand, and no part of the work was completed. Of the lands below Raccoon Forks 188,466 acres had been sold, realizing the sum of $235,708.81, all of which had been expended, and there remained only 133,401 acres, worth at $1.25 per acre, $166,752.36. Over and above the money already expended, there was outstanding debt due to the contractors of not less than $65,000, and unliquidated claims for damages of over $80,000 on suspended contracts. The estimated cost of completing the works between St. Francisville and Keosauqua, excluding the canal, was $210,000. Thus showing an absolute deficit in means to

[1] This report, covering sixty pages, is given in full in the Journal of the Senate of the Fourth General Assembly, Appendix p. 29.

be hoped for from the lands laying below the Raccoon Forks, to meet the actual indebtedness and the estimated cost of $108,250, aside from all claims for unliquidated damages. In view of these facts, and to meet the pressing necessity for immediate progress with the portions of the improvement commenced, to avoid obstructions in the navigation of the river, proposals were issued for the completion of the whole work, or portions thereof as might suit contractors—thus seeking to anticipate the avails of the unsold lands and the rents of water powers, after first providing for all outstanding claims. While the result of this effort remained uncertain the unprecedented rise in the waters of the Des Moines which continued until the month of August, added most seriously to the embarrassments upon the prospects of the work, and threatened its entire abandonment.

Notwithstanding all the accumulated difficulties, the officers appointed did not suspend their efforts; and as no arrangement could be made with the old contractors, who perseveringly pressed their claims for liquidation and payment, they entered into negotiations with Messrs. Bangs, Brothers & Co., of New York, in pursuance of their proposals. When this negotiation was about closing, a new and unexpected difficulty arose of the most embarrassing character. In the month of August, the Secretary of the Interior informed the Commissioner that in accordance with the opinion of the Attorney General, he had decided that the Des Moines river grant, did not extend above the Raccoon Fork, and reversing a prior decision of Mr. Walker, Secretary of the Treasury, on the same question. This action of the General Government was fatal to the prospect

of the improvement if adhered to. In the hope, however, that this would not be the case, the officers proceeded and concluded a contract with Bangs, Brothers & Co., to carry forward the work as far as the means might permit. An effort was then made to prevent the injustice of withholding these lands from the State, which, through the energy of the officers, and the most able counsel, proved successful. The decision of the Secretary of the Interior was reversed, and the lands withheld were restored to the State, thereby ensuring the means necessary for the completion of the improvement. The claims for unliquidated damages were also disposed of by a voluntary arbitration, which resulted in an award in favor of the contractors of twenty-three thousand seven hundred and ninety-six dollars and eighty-nine cents. By this report it will be seen that within the first year this work has gradually recovered from the many and serious embarrassments which pressed upon it, and that this is mainly the result of the energy, and steady perseverance of the officers to whose care it was entrusted.

Their second annual report has just been received and is also herewith submitted. Notwithstanding the favorable prospect at the close of the first year, the progress and condition of the improvement has been retarded by unexpected difficulties. Messrs. Bangs, Brothers & Co., have failed to carry on their contract, and efforts have been made to ensure the speedy completion of the work by contract with various other persons, all of which have so far proved unavailing; and present appearances indicate that it may be compelled to proceed only as means may be realized from the sales of the lands. Under the persevering efforts of the officers, the

portions of the work begun, have progressed so far as to re-open the river for navigation by providing for the passage of boats through the locks, and opening the channel below St. Francisville. The brief period, since the receipt of this report, will not allow me to examine the suggestions contained therein, for the future progress of the improvement, sufficiently to recommend any specific course of action in regard to them. The importance, however, of the subject, will claim your earnest attention, and will recommend itself to your favorable consideration by every constitutional means in your power, to ensure its completion, at the earliest practicable period.

In consequence of the failure of Congress, at its last session, to make a donation of land for the construction of railroads in this State, it would seem to be advisable to again urge this subject upon their consideration; and coming as you do directly from the people, you will be able to understand their wants and their wishes, and it is to be hoped that in a spirit of concession and harmony, conflicting views may be reconciled, and such an application may be made as would conduce to the best interests of the State, and meet with the approbation of the General Government.

For the purpose of carrying out the provisions of an act of the General Assembly, relative to the swamp lands within this State, I did, on the 22d day of February, 1851, address a communication to Col. C. H. Booth, then Surveyor General of Iowa and Wisconsin, requesting him to furnish me with a "list of the lands returned to that office as swamp lands." With this request he did not feel himself authorized to comply, unless the assent of the State should be

given to authorize him to select those lands. Not finding myself authorized under the law to give such assent, the list was not furnished. On the first of Oct., 1851, I again renewed the same application to the present Surveyor General, and on the 17th day of March, 1852, received the list as requested. Being satisfied from the best information I could obtain, that much valuable land would be lost to the State, unless a re-examination should be made, instructions were promptly issued to the county surveyors of such organized counties, where the public lands had been surveyed, to make a more particular examination, and report the same as soon as possible. Thus far no report has been received except from the county of Muscatine. As it is desirable that these returns should be made to secure the title to these lands to the State, I would recommend that the law upon this subject be so changed as to authorize the employment of other persons, where the county surveyor neglects or refuses to perform that duty.

In accordance with the direction of the last General Assembly, I have purchased five hundred dollars worth of books for the State Library, which are daily expected. As soon as they are received the list of the same will be laid before you.

In looking to the future, I cannot avoid a feeling of deep concern at the opinion expressed by some portion of our fellow citizens in favor of amending the Constitution of our State in such a manner as to authorize the establishment of Banks—of special acts of incorporation for pecuniary profit, and of contracting State debts without limitation of the General Assembly. Restrictions which are eminently cal-

culated to protect the people from hasty, unjust, and unwise legislation; and the time has come when we should examine with more than ordinary care the principles of political economy connected with our government, and avert as far as possible approaching evils.—Among the first of these in my estimation is the system of banking which has been and is now carried on in the United States. The power of these institutions over commerce, trade and industry of a country, is easily understood when it is remembered that they are invested by law with extraordinary privileges. First, to concentrate their capital and credit, and to issue their notes to double and often triple the amount of that capital. Second, to loan their credit at a high rate of interest; and third, an exemption from the ordinary liability to pay their debts and contracts to which the majority of mankind are subjected. Possessing these powers and privileges by the sanction of law, and to the exclusion of others, it is not surprising that the agricultural, commercial, and manufacturing interest of the country should be subject to frequent and disastrous convulsions. The depression and ruin which was brought upon thousands by the failure of the banks of Illinois and other Western States in 1841 [0] and 41 cannot be forgotten. And when we find that a number of those States, not profiting by former experience, have recently organized a general system of banking for the purpose of again flooding the whole Mississippi valley with a paper currency, we may justly conclude that another convulsion more disastrous than the first will shortly be at hand. Would it be wisdom in us, under such circumstances, and when it is in the power of every citizen to retain if he sees proper, a gold and silver

currency in the State, to throw aside the sheet anchor of our safety and cast ourselves upon the mercy of the waves?

In connection with this subject I may say with Mr. Madison "that the loss which America has sustained from the pestilential effects of paper money on the necessary confidence between man and man, and the necessary confidence in the public councils, on the industry and morals of the people, and on the character of republican government constitutes an enormous debt against the States chargeable with this unadvised measure, which must long remain unsatisfied or rather an accumulation of guilt which can be expiated no otherwise than by a voluntary sacrifice on the altar of justice." While a system of banking may serve the purpose of stimulating the hopes and business pursuits of a community and impart more than ordinary vigor to the current traffic, during a season of prosperous credit, still it is always treacherous and fraught with too many uncertainties upon which to risk the toil and industry of those who are generally the least able to bear the losses incident to a paper currency. What is to be gained by the great body of people of this State by the creation of banks among us and the substitution of a paper currency the inevitable tendency of which will be to drive the specie from circulation? Will the result prove a sounder and safer state of affairs after banishing gold and silver from circulation, and placing the business relations of State upon a foundation which the first blast of adversity may sweep away? Already we have too much of this currency among us. Already has it to a great extent driven the precious metals from the country, and if permitted to continue will be perilous to our best interests.

For the purpose of retaining in circulation a sufficient sum of gold and silver to do the ordinary business of our citizens, I respectfully urge upon the General Assembly the propriety of passing a law to prohibit the circulation of all bank notes of a less denomination than ten dollars. A law of this character would have a most salutary effect in driving out the small notes from among us, and to a considerable extent protect our citizens from the effects of bank explosions.

It is also time to enquire why it is that the Constitution of this State should be amended to authorize the legislative power, by act of law to create inequalities and distinctions among our citizens by granting the most important privileges to some, to the exclusion of others. It has been justly said, that "a great source of the inequality in the conditions of men in respect to wealth and comfort arises from the action of law." This is particularly the case when applied to the granting of corporate powers and privileges to companies for pecuniary profit by special enactment. And I may say, that such legislation is not consistent with the true principles of a republican government—because that form of government contemplates a perfect equality of political rights, and exclusive privileges and monopolies to none. The constitution of Iowa has therefore wisely prohibited the enactment of such laws, and provides for a general act of incorporation, the privileges of which are free to every citizen. Yet it is contended by some, that this valuable prohibition, together with the restrictions on state indebtedness shall be cast aside for the purpose of trying dangerous experiments, which in all probability would result disastrously to the state and the people — to the

state by plunging her irretrievably in debt—to the people by private loss and a burdensome taxation.

Senators and Representatives: In closing this communication, I may say that the State of Iowa is in a prosperous condition—rapidly increasing in population—owing probably the smallest public debt of any state in the Union—all industrial employments finding encouragement under the regular administration of the laws, and the exercise of a healthful competition which is made free to all by the principles of her constitution—and warm in her attachment to the Union and to the just rights of each state composing it. Thus standing, her policy and her destiny have been committed to your hands. That you will protect and perpetuate that high character, by equal and just enactments, by prudence and economy, and the wisdom of your councils cannot be doubted. And in which efforts allow me to assure you of my hearty concurrence and co-operation.

S. HEMPSTEAD.

DECEMBER 7, 1852.

SECOND BIENNIAL MESSAGE

DECEMBER 8, 1854

From the Journal of the House of Representatives, p. 22

Gentlemen of the Senate, and House of Representatives:

You have again assembled in obedience to the mandates of the Constitution, to deliberate upon the affairs of State, and to enact such laws as may be necessary to secure to the people their just rights and privileges under a republican form of government.

Your duties are of no ordinary character. The enactment of laws for the government of a State, which must, directly or indirectly, affect the welfare of every person within its jurisdiction, will show the importance of the powers with which you have been invested, and how wisely and judiciously they should be exercised. Our constitution is less careful of prescribing legislative duties to be performed, than of imposing certain restrictions upon legislative action. The examples of history and constant experience teach us, that there is a tendency in political associations, as well as in persons, to an undue exercise of power inconsistent with individual rights. For that reason an unwavering adherence to constitutional principles, a constant regard for the rights and privileges secured to, and retained by the people, and a strict observance of the prohibitions upon legislation, should, under all circumstances, be maintained.

It gratifies me to inform you that the State is in a highly prosperous condition; general health prevails; a bountiful harvest has again crowned the efforts of the husbandman; emigration unprecedented in the history and settlement of the West, has been pouring in upon us; the public lands are being rapidly settled and improved by those who, with the pioneers of the country, will doubtless build up a government, which, for its liberal and just policy, and its attachment for the Union, will rank among the first of western States. For this prosperity, and all the great privileges which we enjoy, let us be grateful to Him who holds in his hand the destiny of men and nations.

In calling your attention to the condition of the State, it is in the first place appropriate that I should refer to our financial affairs, and I do so with pride, when I contrast that condition with many of our sister States. The funded debt of the State, for which bonds have been issued, as will appear by the report of the Auditor, amounts to the sum of seventy-nine thousand seven hundred and ninety-five dollars and seventy-five cents.

Sixteen thousand four hundred and forty-two dollars and five cents of these bonds became due on the first day of May last, and the others will be payable in 1856, '57, and '59. It will therefore be necessary for you to make provisions for their payment in the event that the ordinary revenue should not prove sufficient for that purpose. I need not say that the payment of these debts at maturity is important to preserve the good faith and credit of the State.

By the Treasurer's report, which is herewith transmitted, it will be seen, that from the first day of November, 1852,

up to the thirty-first day of October, 1854, there has been received into the Treasury one hundred and twenty-five thousand four hundred and sixty-two dollars and fifty-seven cents, ten thousand five hundred and fifteen dollars and seventy cents of which was received on the sale of saline lands. During that time there has been paid out on Auditor's warrants, one hundred and eighteen thousand five hundred and forty-two dollars and ninety cents. The amount of monies in the Treasury on the thirty-first day of October last, being fifteen thousand five hundred and twenty-two dollars and twenty-two cents, including the sum of eight thousand six hundred and two dollars and eighty-eight cents, which was in the Treasury on the first day of November, 1852.

At the last session of the General Assembly, it was thought advisable to so amend the revenue law, as to require the assessment of taxable property to be made by a township instead of a county officer. This system, as I have been informed, has proven much more expensive than the former one, and leads to errors and inequalities which have been injurious to the public revenue, and unjust to individuals.

To secure uniformity in the assessment of property, and remedy, as far as practicable, the evils complained of, I would recommend that the present law be so amended as to require the election of a county assessor for each county, with such other regulations as may be thought necessary to secure a faithful discharge of his duty.

Permit me again to call the attention of the General Assembly to the laws establishing common schools and the

State University, as a subject of the greatest importance, and in which the people feel a deep interest.

Experience has taught us, that these laws are too complicated, and by frequent amendments have become inexplicit and contradictory, so much so, that it has become difficult to understand, or carry them into force, without the commission of errors, which not unfrequently lead to protracted and burdensome litigation.

Another objection to the system, is the employment of a greater number of officers than would seem to be necessary, and among them, that of school fund Commissioners in each county, the duties of which officer might, it is believed, be discharged by the county treasurer with less expense and greater accuracy than under the present arrangement.

There is also a want of uniformity in the system of education in our common schools, produced by the frequent change of text-books, made by the teachers who conduct them, which occasions unnecessary expense, and proves detrimental to the scholar. In connection with the subject of books, permit me to recommend Dr. Noah Webster's American Dictionary as one of the most comprehensive, learned and valuable works of the kind which has been published in the English language; and also, allow me to add, that the Constitution of the United States, and of this State, should be taught in all our public schools. A system of education by which knowledge is placed within the reach of all, and our youth are taught to comprehend the rights and privileges of citizenship, will fit them for the enlightened discharge of the important duties to which they may be called.

The establishment and endowment of an asylum for lunatics is a measure which should commend itself to your favorable consideration. We cannot but be aware of the fact, that we have a considerable number of those unfortunate persons in our State, who have strong claims upon our sympathy and bounty, and who must be removed from their friends to other States in order to obtain the means of alleviating and improving their condition, or of being confined in our jails and poor-houses.

By an act of Congress, admitting the State of Iowa into the Union, approved March 3d, 1845, all salt springs within the State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as might be, to each, were granted to the State for its use, with a proviso that the General Assembly should never lease or sell the same, at any one time, for a longer period than ten years, without the consent of Congress.

Under these provisions an act was passed by the General Assembly, approved February 5th, 1851, providing, that as soon as the consent of Congress could be obtained these lands might be sold, and that the proceeds should constitute a fund for founding and supporting a lunatic asylum; and futher providing that the amount realized should be invested, and the interest only to be used for that purpose, unless the Commissioners of the asylum should think that the good of the State required eight thousand dollars of the principal fund to assist in the building and furnishing of said asylum. Five thousand dollars was also authorized to be paid, at the discretion of the Superintendent of Public Instruction, for the use of the College of Physicians and Surgeons at Keokuk.

Congress having given their consent that the lands might be sold, an act was passed on the 25th day of January, 1853, for the carrying out of the purposes expressed by the act of February 5th, 1851.

In consequence of the rejection by the general government of a portion of the land which it had before selected for the State, and in order that others might be made, I appointed Israel Keister, Esq., as agent for that purpose, a copy of whose report is herewith transmitted. As yet I have received no information whether the last selection has been approved or rejected.

Should you believe that the prompt sale of these lands would not be sufficient to establish and maintain the asylum, after paying the five thousand dollars to the Medical College at Keokuk, then I submit whether it would not be highly appropriate to provide other ways and means to accomplish an object so desirable.

Your attention is invited to the report of the Inspectors of the Penitentiary, which is herewith submitted, and which, together with the report of the Warden, which will doubtless be laid before you, will exhibit the affairs of the prison for the last two years. By an act of the General Assembly, approved January 13th, 1853, the Inspectors and Wardens were authorized to lease or hire out the prisoners to be worked in the shops upon the prison grounds, if they should deem that the interests of the State would be the best promoted by so doing. They have accordingly executed a contract, hiring the services of the convicts for the term of ten years from the first day of June, 1854. This contract, with the report of the officers, will be subjects for your

careful investigation, and should it appear that the laws and regulations for the government of the prison are deficient, such other provisions should be made as will secure economy and good order in the administration of its affairs.

It is necessary that I should again call your attention to the improvement of the Des Moines river, which in consequence of the many difficulties and obstacles which have been presented from time to time, has made but slow progress towards completion. At the last session of the General Assembly, after an investigation of the condition of the improvement, acts were passed providing for the election of a Commissioner and Register, by the qualified electors of the State on the first Monday of April, 1853, and at the same time appointing George G. Wright, of Van Buren, and Uriah Biggs, of Wapello county, as assistant Commissioners, investing them with full power and authority to sell and dispose of all the lands, tolls, and water rents, as they might deem most expedient for the early completion and vigorous prosecution of the improvement.

Under these provisions of law a contract has been made with Mr. Henry O'Riley and others, for the completion of the improvement—a portion of the old debts have been paid, and the work is said to be progressing. In the report of the Commissioner and Register, which will be laid before you, will undoubtedly be found the contract and all the information which may be necessary for a full understanding of the business entrusted to the charge of those officers, who, it is believed, with the assistant Commissioners, have done everything in their power to carry out the provisions and instructions of the laws under which they have acted.

In connection with this improvement your attention is respectfully called to the claims which have been presented by Hon. Reverdy Johnson and Chancellor Walworth, of New York, in obtaining a reversal of the decision of the Secretary of the Interior, limiting the grant of land for that improvement to the Raccoon Fork of the Des Moines river. These gentlemen have acted in good faith, and rendered most important service to the State; it is therefore appropriate that their claims should be allowed, inasmuch as Bangs & Brother, the contractors who were liable at the time, have failed to pay them, and the State has received the benefit of their efforts. The correspondence of Chancellor Walworth is herewith submitted, and that of Mr. Johnson will be found among the proceedings of the last General Assembly.

Since the formation of our State government, up to the present time, recommendations have been made to the General Assembly to enact such laws as would comply with the Constitution of this State, and the laws of the United States, as to the organization of the militia; and to which subject I would again invite your special attention.

The object of the law of Congress in requiring the organization of the military force of each State, and the appropriations for arms to be distributed to them from year to year is for the purpose of enabling them to defend themselves in cases of emergency, and at the same time to be serviceable to the National Government in the defense of the country, should their services be needed.

It should be remembered that Iowa is a frontier State; portions of our northern and western boundaries are subject to the incursions of Indians, who have but recently disposed

of their right to the soil, who return for the purpose of hunting and not unfrequently commit depredations upon the white inhabitants before United States troops, or any effective military force, can be obtained to repel them. It is therefore prudent and necessary that we should have such a military organization as will enable us in a case of emergency to defend ourselves and protect our citizens.

In July last, I received information from the counties of Cerro Gordo, Floyd, Bremer, Chickasaw, Franklin and others, that a large body of Indians well armed and equipped, had made demonstrations of hostilities by fortifying themselves in various places, killing stock, and plundering houses, and that many of the inhabitants had entirely forsaken their homes and left a large portion of their property at the mercy of the enemy; praying that a military force might be sent to protect them and their settlements. Upon the reception of this information, an order was immediately issued to Gen. John G. Shields, directing him to call out the City Guards of Dubuque, and such other force as might be necessary, not exceeding two companies, to remove the Indians from the state. This order was promptly obeyed, and the company were ready for service, when information was received that the Indians had dispersed—that the citizens were returning to their homes, and quiet had been restored. It therefore became unnecessary for any further proceedings.

Authority was also given to Major Williams, of Fort Dodge, in this State, to raise a volunteer company, should it be necessary to remove any Indians who should be found disturbing any of the inhabitants of the county of Franklin,

or adjoining counties. On the first day of September last he reported that he had not found it necessary to raise any military force, as there did not then exist any cause for alarm, or danger to the settlers.

In April last a communication was received from the ordnance office at Washington, stating that there was due to this State, arms to the value of two hundred and thirty-five muskets, with the desire that the kind and description should be designated. This request was complied with, and the arms have been received, and distributed to organized military companies at Dubuque, Davenport, and Keokuk, with the exception of one brass six-pound gun, which remains to be drawn at the United States Arsenal in St. Louis, Missouri.

My attention has been called to the proceedings of a convention held in this city, on the 28th day of October last, by the old soldiers of the war of 1812, for the purpose of asking relief from Congress, for their services in that war. It may be truly said of these soldiers, that old age is now upon them—that they will soon be called upon to fight their last battle with an enemy who is ever victorious. Many of them are in indigent circumstances, and unable to support themselves. Their gallant defence of the country, in a war second only to the American revolution, should entitle them, not only to the sympathy of Congress, but to the whole American people. I would, therefore, respectfully recommend that you pass a memorial to Congress, setting forth the justice of their claim, and urging, without regard to their term of service, that each be allowed a quarter section of land, and a pension for the few remaining years allotted them to live.

At the last session of the General Assembly a recommendation was made, that such laws be passed as would authorize the appointment of a Commissioner of emigration to reside in the city of New York, whose duty it should be to give immigrants the necessary information as to soil, climate and the branches of business to be pursued with advantage in this State, and to protect, as far as possible, such persons against the impositions frequently practiced upon them.

This recommendation, however, was not carried out, and I again feel constrained to call your attention to the subject with the hope that one or more of such agencies may be established, which in my judgment, if properly conducted, would be highly beneficial to the State, and to those who might feel disposed to become citizens among us.

One of the objections which has been urged against the establishment of such agencies, is, that emigration of foreigners to this country ought not to be encouraged or protected—even secret political associations have been formed for the purpose of discouraging emigration and settlement among us—to prohibit, as far as may be in their power, a naturalized citizen from holding any office of trust or profit under our government, at the same time proscribing others for their religious views and opinions.

The formation of such associations under a government which professes to be republican, and to secure equal rights and privileges to every person who is, or who may become a citizen by virtue of our Constitution and laws, is much to be regretted as leading to evil and dangerous consequences.

What danger can be seriously apprehended from foreign

emigration to this State? They are generally industrious—purchase, settle upon and improve our lands, rear their homes, educate their children with ours, become attached to our laws and institutions, and assist in the defence of the country in times of peril. To proscribe a citizen in this country on account of his birthplace or religious faith, is subversive of all our ideas and principles of civil and religious liberty, and contrary to the spirit and intention of our Constitution and laws. The national government have *no power* to "make laws respecting an establishment of religion, or prohibiting the free exercise thereof," and the Constitution of this State declares that "no religious test shall be required as a qualification for any office or public trust, and no person shall be deprived of any of his rights, privileges or capacities, or disqualified from the performance of any of his public or private duties, or rendered incompetent to give evidence in any court of law or equity, in consequence of his opinions on the subject of religion."

To my mind it is manifest, that the object of these provisions were to *guard* against the proscriptions or intolerance, either by legislation or by individuals, and to leave to every one the right of judging for himself upon questions which relate to eternity, and over which human governments cannot properly exercise control.

In connection with the subject of immigration and settlement in Iowa, it may be observed, that her agricultural and mineral resources are but partially known, and it is believed that an accurate and scientific geological survey would disclose sources of mineral wealth, and the capacity of our soil for the production of many profitable articles, the benefits

of which information to the history of the State and to the people, would far surpass any expense attending such an examination. I would, therefore, recommend this measure to your favourable consideration.

I again invite your attention to the laws regulating the sale of intoxicating liquors, and to the recommendation made by me to the last General Assembly, of granting licenses under proper restrictions, for the sale thereof. Believing that such a law would have a salutary effect in restraining the indiscriminate sale of such liquors, and would be the means of producing a revenue to cities, towns, and counties, which is now lost to them, and that good order might be maintained and the laws enforced, I am therefore induced to present the subject for your candid consideration.

I am aware that there are many persons who take a different view of this question, who insist with great pertinacity that laws should be enacted prohibiting the manufacture and sale of any spirituous, vinous, or malt liquors, under severe penalties, with a right to search in houses and premises, and a destruction of such property wherever it may be found, and prescribing rules of evidence in such cases unknown in any other criminal prosecutions.

Such laws are not calculated to remedy the evil complained of, and are looked upon as an unnecessary infringement upon the natural and constitutional rights of the citizen. The idea that pervades such enactments is, that unusual, numerous, and severe penalties, will lead to their enforcement; when all experience shows that their undue severity defeats their execution, and that after the excite-

ment which caused their enactment has passed away, no one feels disposed to enforce them.

Although this question has been thrust into the political arena, and made to figure extensively in our elections, yet, as guardians and representatives of constitutional supremacy, and the rights of citizens under that government, you will carefully examine the subject which has thus been presented, and make such provisions as may seem to you the best calculated to promote the public good.

Your attention is also invited to the act, passed at the last session of the General Assembly, regulating the interest on money, and of which I may say, that since its passage up to the present time, has not been generally regarded or enforced, and that without being of any benefit to the borrower, has resulted in keeping out of the State much capital, which would otherwise have been introduced among us, and which by fair competition would have reduced the rates of interest much below what is now paid. Such laws are always evaded; and upon the principle that men should be permitted to make their own contracts and dispose of their money or property upon such terms and conditions as may seem to them most appropriate. For these and many other reasons which might be urged, I would respectfully recommend the repeal of all laws in this State upon the subject of usury.

As yet no grants of land have been made to the State of Iowa for the construction of railroads, notwithstanding the repeated applications which have been made to Congress for that purpose. I would, therefore, again call your attention to the subject, and recommend that a memorial be passed

urging the justice of our claim, and that such application be concentrated upon one road to run from the Mississippi to the Missouri river, through the central portion of the State, as it is believed that such an application might meet with a favourable reception. It is very much doubted whether the policy of applying for a sufficient quantity of land to construct five or six roads in Iowa will soon be favourably considered by Congress. It is, therefore, desirable that some system should be adopted by the people and their representatives to concentrate the application to one or two roads, and urge the same with energy and unanimity.

In this connection permit me to speak of the common roads of our State, and to urge upon you the necessity of again reinstating the law which required the election of a County Supervisor. That officer had the charge and supervision of all the roads in the county. Then there was uniformity in the opening and work done upon them—now in some townships the roads are kept in order, and in others nothing is done; and the consequence is, that there is no system or regularity upon a subject which is of the greatest importance and interest to every inhabitant of the State.

Of the swamp or overflowed lands granted to this and other States, by an act of Congress, approved September 28, 1850, it is only necessary for me to say, that at the last session of the General Assembly, it was thought advisable to grant them to the counties in which they might lie, for the purpose of constructing the necessary levees and drains to reclaim them, and the overplus, after paying the expenses of their reclamation, to be applied for the purpose of building roads and bridges in such counties.

Under this act returns of the examination and survey of such lands have been made to the Surveyor General of Iowa and Wisconsin from counties, the names of which are herewith transmitted.

As it is desirable that such returns should be made as soon as possible, in order to obtain the title from the General Government to these lands, I would suggest such further legislation as will require, if possible, the delinquent counties to comply with the laws which have been heretofore enacted for their benefit.

Many other subjects of legislation which have not been noticed, will doubtless suggest themselves to your consideration, and receive that attention which their importance may require.

In concluding this communication to the General Assembly of Iowa, I may be permitted to refer to the policy of government, under which we have increased in population and wealth, unsurpassed in the history and settlement of Western States, and it must be conceded, that for the high position which we now occupy, as a sovereign State of the American Republic, that we are principally indebted to the constitution and laws for that prosperity.

Of the Constitution of this State, it may with justice be said, that it is republican in its character, and designed to protect the people against abuse and evils which have crept into the government of other and older States. It prohibits any association or corporation from exercising the privilege of creating paper to circulate as money; it declares that corporations shall not be established by special laws, except for political or municipal purposes; and for all others, that

general laws shall be passed for their organization, reserving to every one the privilege of forming companies for the transaction of all lawful business, and limiting State indebtedness in such a manner as to prevent great loss or repudiation. These restrictions, it is believed, have done much to build up this State, and to assure citizens that they are not to be oppressed by monopolies, bankruptcy, or extraordinary taxation.

In my last message to the General Assembly, I felt it to be my duty to caution the people against the system of banking which was then contemplated, and carried on in the United States, as being dangerous to the agricultural and manufacturing interests of the country, and urged the propriety of passing a law prohibiting the circulation of bank notes of a less denomination than ten dollars, for the purpose of retaining a sufficient sum of gold and silver to do the ordinary business of our citizens, and to which recommendation I would again invite your favorable consideration. But two years have elapsed since that time, and we find ourselves in the midst of a monetary crisis. In our public journals will be found long lists of suspended and broken banks. Who are generally the sufferers? Not those whose business it is to deal in money and bank paper, and who wield the lightnings of heaven to tell them of danger or disasters, but others whose very existence depends upon their labor, and who can ill afford to pay the luxury and expense of banking corporations.

Yet with all the evidences which we have before us of the pestilential effects of paper money on the necessary confidence between man and man, the necessary confidence in

our public councils, and the industry and morals of the people, the enormous frauds which have been practiced, and the loss suffered by the toiling millions, we are told that it is necessary to establish a banking system in Iowa. Such a system might be a fitful stimulant to our hopes and business pursuits, and impart more than ordinary vigor to the current traffic during a season of prosperous credit; still, it is always treacherous, and fraught with too many uncertainties upon which to risk the agricultural and most important interests of the country, and which are liable to be swept away by the very first blast of adversity. Viewing all the expedients resorted to, to conceal and mitigate the errors of modern banking, it will be found that the system of employing public stocks and securities is the most exceptionable, as it is making one promise, which it may be impossible to redeem, the foundation of another equally desperate.

The opinions which I have taken occasion to express in my previous communications to the General Assembly, upon the subject of banking, of State indebtedness, and of exclusive privileges and special legislation, remain unchanged. Nor can I perceive in the altered condition of our business relations, or the positive wants of community, any imperative reason why our Constitution should be amended to authorize their introduction into Iowa.

In retiring from the office to which I was elected by the free suffrages of the people of Iowa, I cannot refrain from expressing to them, and to you as their representatives, my profound gratitude for the honors conferred upon me by their confidence, and to assure them of my continued aspirations for their welfare and prosperity, and the advancement

of this young and flourishing commonwealth, and the fervent hope that her legislation and future policy will be such as to insure to her citizens the full enjoyment of civil and religious liberty—that she will discountenance civil discord and local animosities among the States of our Union, and concede to each and all, the rights which pertain to them under our national Constitution and laws, and that she will in every emergency defend that Union which has led our republic to honor and greatness.

With these hopes and wishes for the welfare of Iowa and our common country, I retire from the office with which I have been honored.

STEPHEN HEMPSTEAD.

IOWA CITY, DECEMBER 8th, 1854.

VETO MESSAGES

TO THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1851

From the Journal of the House of Representatives, p. 381

Gentlemen of the House of Representatives:

I conceive it to be my duty under the constitution to return to you with my objections, an act authorizing F. J. Wheeling, M. H. Clark and their associates to erect a toll bridge across East Nishnabotany river; which was on this day presented for my approval.

The first section of the act provides "that F. J. Wheeling and M. H. Clark and their associates be and they are hereby authorized to erect and keep a toll bridge across the East Nishnabotany river for the term of twenty years, with the exclusive privilege of bridging said stream one mile up and down said stream, from the point where the state roads from Ottumwa to Council Bluffs, and from Fort Des Moines to Kanesville crosses said stream." The act also establishes the rate of toll and authorizes the proper county "to purchase said bridge at the expiration of ten years from its completion, by paying a fair compensation for the same," but fixes no time when the bridge shall be completed.

Does this act create a corporation, and if so is it for political or municipal purposes. To determine this question, let me observe that "a corporation may be defined to be a body of persons connected together by law, either con-

temporaneously or in succession, and endowed with the capacity of acting for one or various purposes as a single person." Corporations are also public and private. The act under consideration is of the latter class, as it is founded on private means for private benefit, whereby individuals have an interest distinct from that of the community; it is therefore not a political, municipal or public corporation. Apply these rules to the act in question and we find a body of persons connected by law, with the right of succession for twenty years and with the power of acting as one person for the purpose of constructing and keeping up a bridge for private gain.

Upon examining the whole question, I am unable to avoid the conclusion that the act under consideration is intended and would create a private corporation.

The second section of the ninth article of the constitution declares that "corporations shall not be created in this state by special laws except for political or municipal purposes; but the General Assembly shall provide by general laws for the organization of all other corporations, except corporations with banking privileges, the creation of which is prohibited."

In compliance with this provision the General Assembly passed "an act authorizing general incorporations approved February 22d, 1847," now in force granting to every citizen the right of forming a company or association for the transaction of "any business which may be the lawful subject of a general partnership including the establishment of ferries, the construction of railroads and other works of internal improvement."

The language and intention of the constitution cannot be mistaken, it asserts a great and just principle which is worthy of the highest consideration by those who are intrusted with legislative power, the object being to prevent special and partial legislation and place the citizens of this state upon an equality as to those privileges which should be equal to all. Is it necessary, is it desirable that the time of the Legislative Assembly should be consumed, and the money of the people expended in granting to private individuals for private gain, franchises and privileges of the character under consideration? Gentlemen, I leave the question for your determination, not doubting but that your decision will sustain and carry out the provisions of the constitution upon a question of so much importance to the the people of this state.

S. HEMPSTEAD.

FEBRUARY 4th, 1851.

TO THE HOUSE OF REPRESENTATIVES

FEBRUARY 4, 1851

From the Journal of the House of Representatives, p. 384

Gentlemen of the House of Representatives:

I am compelled to return to you with my objections, an act to authorise Winthrop Folsom and Gilman Folsom their heirs and successors to build a bridge across the Iowa river at Iowa City, on a continuation of Iowa avenue, which has this day been presented for my approval.

For my objections to the passage of acts of this character, I respectfully refer you to my message of this date, disapproving "An act authorising F. J. Wheeling, M. H. Clark and their associates to erect a toll bridge across east Nishnebotany river."

S. HEMPSTEAD.

FEBRUARY 4th, 1851.

TO THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 1851

From the Journal of the House of Representatives, p. 384

Gentlemen of the House of Representatives:

I herewith return to you "An act to authorise Robert Gower, James H. Gower, Jacob Shawver and Peter Dilts and others to erect a toll bridge across Cedar river, in Cedar county," which was this day presented for my approval.

I believe this act to be a violation of the second section of the ninth article of the constitution, for the reasons assigned in my message of this date disapproving an act authorising F. J. Wheeling, M. H. Clark, and their associates to erect a toll bridge across east Nishnebotany river, to which I respectfully refer you.

S. HEMPSTEAD.

FEBRUARY 5th, 1851.

TO THE SENATE

FEBRUARY 5, 1851

From the Journal of the Senate, p. 319

Gentlemen of the Senate:

I return, with objections, "An act to authorize the Farmington Bridge Company to build a bridge across the Des Moines river, at the town of Farmington," which was this day presented for my approval.

The act provides that certain persons "or either of them, and any person they may see proper to associate with them," under the name and style of the Farmington Bridge Company, are authorized to erect a toll bridge across the Des-Moines river, opposite the town of Farmington, in Van Buren county, with the exclusive privilege of bridging said river at said point, and for one mile up and down said river, for the term of twenty years, &c.

Does this act create a corporation? To determine this question let me observe that "a corporation may be defined to be a body of persons connected together by law, either contemporaneously or in succession, and endowed with a capacity of acting for one or various purposes, as a single person."

Apply this rule to the act under consideration, and we find a body of persons connected by law, under the name and style of the "Farmington Bridge Company," with succession for the term of twenty years, and with the exclusive privilege of bridging said river for one mile up and down the same. This act, in my judgment, is clearly intended to establish a private corporation—it has a name—succession

—an object and whatever is necessary for that purpose, and is to be established upon private means.

The second section of the ninth article of the Constitution declares that "corporations shall not be enacted in this State, by special laws, except for political or municipal purposes; but the General Assembly shall provide, by general laws, for the organization of all other corporations, except corporations with banking privileges, the creation of which is prohibited."

It cannot be contended that this is a "political or municipal" corporation, because all such are of a public character, beginning with the government of the United States, and descending down through states, counties, townships, school districts and the like.

The General Assembly, in compliance with the provisions of the Constitution, passed "An act authorizing General Incorporations," approved February 22d, 1847, (now in force,) granting to every citizen the right of forming a company or association, for the purpose of transacting "any business which may be the lawful subject of a general partnership, including the establishment of ferries, the construction of rail roads and other works of internal improvement."

The language and intention of the Constitution cannot be mistaken, it asserts a great and just principle, which is worthy of the highest consideration by those who are entrusted with legislative power—the object being to prevent special and partial legislation, and place the citizens of this State upon an equality as to those privileges which should be equal to all. Is it necessary, is it desirable, that the time of the General Assembly should be consumed, and the

money of the people expended, in granting to private individuals for private gain franchises and privileges of the character of the act in question. Is it desirable, that under the plea of benefiting the public, exclusive privileges and monopolies should be granted to a few individuals. Having discharged what I conceive to be my duty, I now return the act for your further consideration.

S. HEMPSTEAD.

FEBRUARY 5th, 1851.

TO THE SENATE

FEBRUARY 5, 1851

From the Journal of the Senate, p. 322

Gentlemen of the Senate:

I herewith return to you, with my objections, An act to authorize the Keosauqua Bridge Company to build a bridge across the Des Moines river, at Keosauqua, which has just been presented for my approval.

For my objections to the passage of acts of this character, I respectfully refer you to my message of this date, disapproving An act to authorize the erection of a bridge at Farmington, by the Farmington Bridge Company.

S. HEMPSTEAD.

FEBRUARY 5th, 1851.

TO THE HOUSE OF REPRESENTATIVES

JANUARY 18, 1853

From the Journal of the House of Representatives, p. 319

Gentlemen of the House of Representatives:

I conceive it to be my duty to return to you with objections, an act submitting to the electors of Iowa the question of a convention to amend the constitution, which has been presented for approval.

This act provides, that at the next general election, a vote shall be taken for or against the call of a convention to amend the constitution, and that in case it shall be found that a majority have voted for a convention, the next succeeding General Assembly shall provide for holding the same. The election thus contemplated, to take place on the first Monday in August, in the year 1854, and the General Assembly to meet on the first Monday of December following.

The Tenth article of the constitution requires that in case a majority of the people vote in favor of a convention, that it shall be held within six months thereafter, thus leaving but two months from the meeting of the General Assembly for the enactment and publication of necessary laws, the election of delegates, and the assemblage of the convention at the seat of government by the provisions of the act under consideration.

The constitution declares that if, at any time the General Assembly shall think it necessary to revise or amend, they shall provide for a vote of the people; evidently intending that the Assembly who have thus deemed it necessary,

should make such provision as might be proper to carry out the object intended.

Satisfied that the act under consideration, is not in accordance with the spirit and intention of the constitution, I herewith return it to the House in which it originated, for further consideration.

S. HEMPSTEAD.

IOWA CITY, JANUARY 18, 1853.

TO THE HOUSE OF REPRESENTATIVES

JANUARY 24, 1853

From the Journal of the House of Representatives, p. 412

Gentlemen of the House of Representatives:

I am again compelled to return to you without my approval, an act submitting to the electors of Iowa the question of a convention to amend the constitution of the State.

This act, among other things, provides that at the next general election in August, 1854, a vote shall be taken for or against a convention, and that such election shall be conducted as provided in the 25th chapter of the code; the returns to be made to the Secretary of State, and the Governor is required on or before the 10th day of September, 1854, to issue his proclamation declaring the result of said election. Should a majority of the votes cast, be in favor of a convention, then an election of delegates is to take place on the first Monday of November following, which

election is to be held and returns are to be made according to the provisions of the code regulating general elections.

The act also requires that the number of delegates shall correspond to the number of Representatives in the General Assembly, as apportioned at the present session, but makes no provision as to who shall be eligible, whether they shall be citizens or residents of the state, or be elected by counties, districts, or by the state at large.

Our laws do not provide for, or contemplate such an election; it is therefore, necessary that any act creating such an emergency should explicitly provide for a full and fair representation of the people in a convention, the most important to their welfare which could ever assemble in the state of Iowa. This by the act under consideration has not been done, nor in my judgment, could its object be carried out without resulting in misunderstanding and confusion in consequence of its indefinite provisions.

In my message, which was communicated to the General Assembly at the commencement of your session, I could not avoid expressing a deep concern at the opinion entertained by some portion of the people, in favor of a revision of the constitution, to authorize the establishment of banks, of special acts of incorporation for pecuniary profit, and of contracting debts without limitation by the General Assembly.

The sentiments which I then entertained have undergone no change, unless it be, that I am more strongly impressed with the belief that it would be suicidal to part with a constitution which throws around the people its protecting arm, and places between them and crafty adventurers, formidable

obstacles to the acquisition of influence and power, which places them above the reach of that species of legislation which leads a state to bankruptcy and her citizens to degradation.

I am not unaware that the constitution recognizes the General Assembly as the judge of the necessity of submitting the question of its revision to the people, yet I cannot divest myself of the responsibility which appertains to a co-ordinate branch of the government, nor of the obligations which that position imposes upon me. Feeling as I do, the full weight of that responsibility, and the obligations which the constitution imposes upon me, I cannot, in the absence of a more marked expression of popular desire on the part of the people than what has heretofore been manifested, approve of any bill, which has for its object the calling of a convention to amend the constitution. The legitimate ends of government have been and can still be obtained by its wise provisions, under which the State of Iowa has thus far been prosperous, and the rights and interests of her citizens been secured and protected.

Believing that the constitution is satisfactory to a majority of the people of this state, and that they have not desired the question of its amendment to be thrust upon them, I have therefore felt it my duty to return the act which was presented for my approval to the House, in which it originated.

S. HEMPSTEAD.

IOWA CITY, JANUARY 24th, 1853.

TO THE SENATE

JANUARY 24, 1853

From the Journal of the Senate, p. 326

Gentlemen of the Senate:

I am compelled to return to you with objections, "an act to amend chapter 80 of the code of Iowa, and making further provisions for the relief of occupying claimants," which has been presented to me for approval.

Concurring in many of the provisions of the bill, and believing them to be salutary and just, yet, when by the sixth section thereof, it declares that "any court deeming the provisions of this act providing for a judgment in favor of the occupying claimant unconstitutional, shall nevertheless order a stay of execution by the successful claimant until payment, tender or satisfaction be made," thereby requiring the court to execute a law which they may decide shall not have force or effect; it is so manifestly unconstitutional, that I herewith return it for your further consideration.

STEPHEN HEMPSTEAD.

IOWA CITY, JANUARY 24th, 1853.

SPECIAL MESSAGES

TO THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 1850

From the Journal of the House of Representatives, p. 45

Gentlemen of the Senate and House of Representatives:

I herewith transmit the Report of the Board of Public Works, which was placed in my hands on yesterday, and which I am assured would have been made to my predecessor had not the Secretary of the Board been unavoidably delayed in his arrival at this city.

In submitting this report, permit me to express the hope, that it will be thoroughly and carefully considered by the General Assembly, and that such provisions may be made to secure the progress of the work as will accord with the Constitution, the object of the grant made by Congress, and the best interests of the State.[1]

S. HEMPSTEAD.

DECEMBER 7th, 1850.

[1] This report, covering 72 pages, appears in full in the Journal of the House of Representatives, third regular session of the General Assembly, Appendix, p. 43.

TO THE SENATE

DECEMBER 12, 1850

From the Journal of the Senate, p. 51

Gentlemen of the Senate:

In compliance with your resolution requesting information, whether the board of commissioners to revise and report a code of laws for the State, have reported to me, &c. I beg leave to say, that the remainder of the code has this day been placed in my hands, with the exception of the chapters mentioned in the report of the commissioners, to which I respectfully call the attention of the Senate, as explanatory of the reasons why that part of the work has been retained for further consideration. As those parts are separate and distinct, and may be examined and passed upon at any time, it will not prevent the General Assembly from proceeding with the remainder of the code which is herewith transmitted.

STEPHEN HEMPSTEAD.

DECEMBER 12, 1850.

To His Excellency, the Governor, of Iowa:

SIR:—The undersigned beg leave to transmit to the General Assembly, through you, the accompanying papers containing the finished work of the commissioners of revision.

In our former report we alluded to the fact of certain chapters or subjects being unfinished. We desire to explain what these are and some of the reasons of their delay.

The delay has not been for the convenience of the commissioners, but on the contrary, it has been much to their inconvenience. It arose from a desire to render those portions more complete, when done.

Title five, relating to the property of the State—the public lands, funds, &c.

Title six, of the revenue, and title seven, of schools.

Embracing in all six chapters relating to subjects upon which the commissioners felt anxious to obtain the reports of the public offices, and to consult the officers of those several departments. In the case of the school law, the head of that department has expressed a desire to render his assistance, which his position and acquaintance with the operation of the system renders exceedingly desirable to the undersigned. But these objects have not been attainable until since the session of the General Assembly commenced.

The chapters containing the road law, and licenses for railroads, &c., which also have been somewhat delayed, are ready for engrossment, which however need not take place should they be ordered to be printed.

The chapter relating to, and prescribing fees and costs, from its nature and relation, cannot well be prepared until near the conclusion of the whole.

Finally a concluding provision relating to the effect of the revision upon past and existing transactions, can be better prepared and apprehended toward the close of the examination of the work, and has for this reason been postponed.

These chapters might have been prepared earlier, but to the probable inconvenience of the General Assembly and of the people. We believe that the common good required the course which we have pursued, however inconvenient to ourselves.

These chapters will be prepared in their order and will be in readiness at an early day.

W. G. Woodward,
Charles Mason,
Commissioners of Revision.

Iowa City, Dec. 12, 1850.

TO THE SENATE AND HOUSE OF REPRESENTATIVES

DECEMBER 14, 1850

From the Journal of the Senate, p. 57

Gentlemen of the Senate and House of Representatives:

The distinguished Hungarian patriot, Gov. L. Ujhazy, with a considerable number of his associates, driven from Hungary by the merciless persecution and aggression of the Austrian and Russian Governments, in consequence of their gallant defence of the liberties of their country, have settled in the county of Decatur, in this State, with the determination of making that place their home, and as I am informed, have petitioned Congress to grant them the land upon which they have thus settled.

For the purpose of aiding those brave and worthy men in their application, and securing to them a home where they can enjoy that liberty for which they exposed their lives and sacrificed their fortunes, I respectfully recommend that the General Assembly memorialize Congress to grant them the land which they have asked.

S. HEMPSTEAD.

DECEMBER 14, 1850.

TO THE HOUSE OF REPRESENTATIVES

JANUARY 9, 1851

From the Journal of the House of Representatives, p. 325

Gentlemen of the House of Representatives:

I herewith transmit the Decree of the Supreme Court of the United States upon the question of boundary between

the states of Iowa and Missouri, and respectfully recommend, that a sufficient appropriation be made to defray the expenses adjudged by said court against the State of Iowa.[1]

S. HEMPSTEAD.

JANUARY 9th, 1851.

TO THE SENATE

DECEMBER 15, 1852

From the Journal of the Senate, p. 52

EXECUTIVE DEPARTMENT, IOWA CITY, Dec. 15, 1852.

Gentlemen of the Senate:

Your resolution of inquiry whether the money appropriated by act of Congress at its last session, to reimburse the state for means expended in the survey and establishment of our southern boundary line, has been drawn from the United States treasury, has been laid before me, and in answer thereto, I would say, that the portion of the appropriation which referred to which belongs to this state has not been drawn, nor has any official communication from the department at Washington, been received upon this subject.

As a question may arise, as to which state officer has the proper authority under existing laws, to draw the money, I would respectfully recommend, that the General Assembly make such provision as will enable the State Treasurer to draw for the same, and to place it in the treasury.

S. HEMPSTEAD.

[1] This decree, covering 59 pages, appears in full in the Journal of the House of Representatives, third regular session of the General Assembly, Appendix, p. 213.

TO THE HOUSE OF REPRESENTATIVES

JANUARY 11, 1853

From the Journal of the House of Representatives, Appendix, p. 130

Gentlemen of the House of Representatives:

Your resolution requesting me to furnish at the earliest practicable opportunity, all information in my possession relative to the saline lands of the State, their location, &c., has been laid before me, and in reply thereto, I would say that by an act of Congress, approved March 3, 1845, there was granted for the use of the State, all salt springs within its limits, not exceeding twelve in number, with six sections of land adjoining or contiguous as might be to each.

Under the provisions of this act, the General Assembly, by a law approved February 24, 1847, authorized the Governor to appoint an agent to select and report such lands; which duty was performed by Mr. John Brophy, whose selections were approved by His Excellency, Governor Briggs; a list of which, together with a communication from the Register and Receiver of the Land Office, at Fairfield, in this State, is herewith transmitted.

By an act of the General Assembly, approved February 5th, 1851, it was provided that as soon as the Congress of the United States should give their consent, the saline lands belonging to the State might be sold, and the proceeds thereof constitute a fund for the founding and support of a lunatic asylum, and that five thousand dollars of the principal thus obtained, should be applied under the direction of the Superintendent of Public Instruction, for the use of the College of Physicians and Surgeons at Keokuk.

By an act of Congress, approved May 27, 1852, these lands were granted to the State in fee simple, to be disposed of and the proceeds to be applied as the General Assembly might direct.

Steps will be taken at an early date to produce the proof necessary to establish the right of the State to the lands which have been selected, and in case this cannot be done, an agent will be appointed to select other lands in accordance with the provisions of the act of Congress.

S. HEMPSTEAD.

EXECUTIVE DEPARTMENT, IOWA CITY, JANUARY 11th, 1853.

TO THE SENATE AND HOUSE OF REPRESENTATIVES

JANUARY 22, 1853

From the Journal of the Senate, p. 310

Gentlemen of the Senate and House of Representatives:

I herewith transmit a list of the books purchased by me, in accordance with the directions of the General Assembly, and which have been placed in the State Library.

The sum authorised to be expended was five hundred dollars: With this amount it was impossible to do much toward filling up the library, and as it was very deficient in the writings of American authors, I came to the conclusion to apply a portion of the appropriation for the purchase of works of that character.

The list will show the titles of the books, and price of each volume, amounting to the sum of four hundred fifty-six dollars and fifty-two cents, leaving thirteen dollars and forty-eight cents of the appropriation unexpended, which will be applied to the payment of freight and charges on the same.[1]

S. HEMPSTEAD.

EXECUTIVE DEPARTMENT, IOWA CITY, JAN. 22, 1853.

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[1] For the list of the titles of these books see Journal of the Senate, p. 311.

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